STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR

BOARD OF REGISTERED NURSING
P.O. Box 944210, Sacramento, CA, 94244-2100
P (916) 322-3350 | www.rn.ca.gov
Ruth Ann Terry, MPH, RN, Executive Officer

BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MEETING MINUTES

DATE: February 4, 2009

TIME: 12:00pm - 2:00pm

LOCATION: Laguna Niguel City Hall – Council Chambers
27841 La Paz Road
Laguna Niguel, CA 92677

MEMBERS PRESENT: LaFrancine Tate, Chair
Janice Glaab

STAFF PRESENT: Louise Bailey, SNEC, Staff Liaison

The meeting was called to order at 12:00 pm by the chairperson.

8.0 Approve/Not Approve: Minutes of September 3, 2008
The minutes of September 3, 2008 were approved.

8.1 Information Only: 2007-2008 Goals and Objectives: Summary of Accomplishments

8.2 Information Only: 2007-2008 Legislative Session Summaries

8.3 Approve/Not Approve: Goals and Objectives for the two year Legislative Session 2009-2010 – They were approved by the committee.

8.4 Adopt/Modify Positions on Bills of Interest to the Board

AB 48 Portantino and Niello: Private Postsecondary Education: Department of Consumer Affairs
Committee Position: Support
Bill Status: Assembly

AB 120 Hayashi: Health care providers: reasonable disclosure: reproductive choices
Committee Position: Watch
Bill Status: Assembly

AB 160 Hayashi: Registered Nurses: Education Program
Committee Position: Watch
Bill Status: Assembly

SB 43 Alquist: Health Professions
Committee Position: Support
Bill Status: Senate

SB 92 Aanestad: Health care reform
Committee Position: Watch
Bill Status: Senate

SB 112 Oropeza: Hemodialysis Technicians
Committee Position: Support
Bill Status: Senate

8.5 **Open Forum:**
No comments

The meeting was adjourned at 2:00 pm

Submitted by: _____
Louise Bailey, MEd., RN

Approved by: _____
LaFrancine Tate, Chair

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MEETING MINUTES

DATE: September 3, 2008

TIME: 11:00am- 1:00pm

LOCATION: Laguna Niguel City Hall – Council Chambers
27841 La Paz Road
Laguna Niguel, CA 92677

MEMBERS PRESENT: LaFrancine Tate, Chair
Janice Glaab

STAFF PRESENT: Louise Bailey, SNEC, Staff Liaison

The meeting was called to order at 11:00 am by the chairperson.

1.0 Approve/Not Approve: Minutes of May 20, 2008
The minutes of May 20, 2008 were approved.

2.0 Adopt/Modify Positions on Bills of Interest to the Board

AB 211 Jones: Public Health: Confidential Medical Information
Committee Position: Support
Bill Status: Enrolled

AB 994 Parra: Health Care: Nurse Training Scholarship Pilot Program
Committee Position: Support
Bill Status: Enrolled

AB 1605 Lieber: The State Department of Public Health: State Public Health Nurse
Committee Position: Support
Bill Status: Enrolled

AB 2637 Eng: Dental Auxiliaries
Committee Position: Oppose Unless Amended
Bill Status: Enrolled

AB 2649 Ma: Medical Assistants: Authorized Services
Committee Position: Support
Bill Status: Enrolled

SB 1393 Scott: Nursing Programs
Committee Position: Support
Bill Status: Chaptered 175

SB 1441 Ridley-Thomas: Healing Arts Practitioners: Alcohol and Drug Abuse
Committee Position: Support
Bill Status: Enrolled

SB 1621 Ashburn: Nursing Education
Committee Position: Support
Bill Status: Chaptered 183

3.0 Open Forum:
No comments

The meeting was adjourned at 1:00 pm

Submitted by: Louise Bailey
Louise Bailey, MEd., RN

Approved by: LaFrancine Tate
LaFrancine Tate, Chair

BOARD OF REGISTERED NURSING
Agenda Item Summary
Legislative Committee

AGENDA ITEM: 8.1
DATE: March 19, 2009

ACTION REQUESTED: Adopt/Modify Positions on Bills of Interest to the Board

REQUESTED BY: Louise Bailey, MEd, RN
Nursing Education Consultant

BACKGROUND:

Assembly Bills:	**Senate Bills:**
AB 259	**SB 155**
AB 492	**SB 182**
AB 867	**SB 294**
AB 877	**SB 303**
AB 1116	**SB 360**
AB 1295	**SB 368**
AB 1430	**SB 638**
ACR 31	**SB 674**

NEXT STEP: Place on Board Agenda

FINANCIAL IMPLICATIONS, IF ANY: None

PERSON TO CONTACT: Louise Bailey, MEd, RN
Nursing Education Consultant
(916) 574-7600

BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2009
MARCH 19, 2009

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
AB 48	Portantino & Niello	Private postsecondary education: DCA	Support	Watch	Assembly
AB 120	Hayashi	Health care providers: reasonable disclosure: reproductive choices	Watch	Dropped	Assembly
AB 160	Hayashi	Registered Nurses: Education Program	Watch	Watch	Assembly
AB 259	**Skinner**	**Health Care Coverage: certified nurse-midwives: direct access**	**--**	**--**	**Assembly**
AB 492	**Conway**	**Community Colleges: nursing faculty**	**--**	**--**	**Assembly**
AB 867	**Nava and Arambula**	**California State University: Doctor of Nursing Practice degree**	**--**	**--**	**Assembly**
AB 877	**Emmerson**	**Healing Arts**	**--**	**--**	**Assembly**
AB 1116	**Carter**	**Cosmetic Sugery**	**--**	**--**	**Assembly**
AB 1295	**Fuller**	**Postsecondary education: nursing degree programs**	**--**	**--**	**Assembly**
AB 1430	**Swanson**	**Pupil Health: licensed nurses**	**--**	**--**	**Assembly**
ACR 31	**Ruskin**	**California Community Colleges: Faculty**	**--**	**--**	**Assembly**

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

BOARD OF REGISTERED NURSING
SENATE BILLS 2009
MARCH 19, 2009

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
SB 43	Alquist	Health professions	Support	Support	Senate
SB 92	Aanestad	Health care reform	Watch	Watch	Senate
SB 112	Oropeza	Hemodialysis Technicians	Support	Support	Senate
SB 155	**Wright**	**Student financial aid: Assumption Program of Loans for Education: school nurses**	**--**	**--**	**Senate**
SB 182	**Ashburn**	**Community college nursing faculty**	**--**	**--**	**Senate**
SB 294	**Negrete McLeod**	**Nurse practitioners**	**--**	**--**	**Senate**
SB 303	**Alquist**	**Nursing facility residents: informed consent**	**--**	**--**	**Senate**
SB 360	**Yee**	**Health Facilities: direct care nurses**	**--**	**--**	**Senate**
SB 368	**Maldonado**	**Confidential medical information: unlawful disclosure**	**--**	**--**	**Senate**
SB 638	**Negrete McLeod**	**Regulatory boards: operations**	**--**	**--**	**Senate**
SB 674	**Negrete McLeod**	**Healing arts: outpatient settings**	**--**	**--**	**Senate**

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Skinner	**BILL NUMBER:**	AB 259
SPONSOR:	California Nurse Midwifery Association	**BILL STATUS:**	Assembly
SUBJECT:	Health Care Coverage: certified nurse-midwives: direct access	**DATE LAST AMENDED:**	Introduced 2/11/09

SUMMARY:
Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or health insurance policy to allow an enrollee or policyholder the option to seek obstetrical and gynecological physician services directly from an obstetrician and gynecologist or a family practice physician and surgeon, subject to specified provisions established by the plan or insurer.

This bill would amend sections of the Health and Safety Code and the Insurance Code, relating to health care coverage.

ANALYSIS:
This bill would require a health care service plan contract or health insurance policy to allow an enrollee or policyholder the option to seek obstetrical and gynecological services from a certified nurse-midwife. The bill would specify that a violation of this requirement with respect to health care service plans would not be a crime.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 259

Introduced by Assembly Member Skinner

February 11, 2009

An act to amend Section 1367.695 of the Health and Safety Code, and to amend Section 10123.84 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 259, as introduced, Skinner. Health care coverage: certified nurse-midwives: direct access.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance.

Existing law requires a health care service plan contract or health insurance policy to allow an enrollee or policyholder the option to seek obstetrical and gynecological physician services directly from an obstetrician and gynecologist or a family practice physician and surgeon, subject to specified provisions established by the plan or insurer.

This bill would additionally require a health care service plan contract or health insurance policy to allow an enrollee or policyholder the option to seek obstetrical and gynecological services from a certified nurse-midwife, as specified. The bill would specify that a violation of this requirement with respect to health care service plans shall not be a crime. The bill would also make other conforming changes and would delete certain obsolete language.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1367.695 of the Health and Safety Code is amended to read:

1367.695. (a) The Legislature finds and declares that the unique, private, and personal relationship between women patients and their ~~obstetricians~~ *obstetrical* and ~~gynecologists~~ *gynecological providers* warrants direct access to obstetrical and gynecological ~~physician~~ services.

(b) Commencing January 1, ~~1999~~ *2010*, every health care service plan contract issued, amended, renewed, or delivered in this state, except a specialized health care service plan *contract*, shall allow an enrollee the option to seek obstetrical and gynecological ~~physician~~ services directly from ~~a~~ *any of the following health care providers, provided that the services fall within the scope of practice of that provider:*

(1) A participating obstetrician and ~~gynecologist or directly from a~~ *gynecologist.*

(2) A participating certified nurse-midwife.

(3) A participating family practice physician and surgeon designated by the plan as providing obstetrical and gynecological services.

(c) In implementing this section, a health care service plan may establish reasonable provisions governing utilization protocols and the use of obstetricians and gynecologists, *certified nurse-midwives,* or family practice physicians and surgeons, as provided for in subdivision (b), participating in the plan network, medical group, or independent practice association, provided that these provisions shall be consistent with the intent of this section and shall be those customarily applied to other physicians and surgeons, such as primary care physicians and surgeons, to whom the enrollee has direct access, and shall not be more restrictive for the provision of obstetrical and gynecological ~~physician~~ services. An enrollee shall not be required to obtain prior approval from another physician, another provider, or the health care service plan prior to obtaining direct access to obstetrical and gynecological ~~physician~~ services, but the plan may establish reasonable requirements for

the participating obstetrician and gynecologist, *certified nurse-midwife,* or family practice physician and surgeon, as provided for in subdivision (b), to communicate with the enrollee's primary care physician and surgeon regarding the enrollee's condition, treatment, and any need for followup care.

(d) This section shall not be construed to diminish the provisions of Section 1367.69.

~~(e) The Department of Managed Health Care shall report to the Legislature, on or before January 1, 2000, on the implementation of this section.~~

(e) Notwithstanding Section 1390, a violation of this section, as it related to direct access to nurse-midwives, the amendments made to this section by the act adding this subdivision shall not be a crime.

SEC. 2. Section 10123.84 of the Insurance Code is amended to read:

10123.84. (a) The Legislature finds and declares that the unique, private, and personal relationship between women patients and their ~~obstetricians~~ *obstetrical* and ~~gynecologists~~ *gynecological providers* warrants direct access to obstetrical and gynecological ~~physician~~ services.

(b) Commencing January 1, ~~1999,~~ *2010,* every policy of ~~disability insurance that covers hospital, medical, or surgical expenses, and~~ *health insurance* that is issued, amended, delivered, or renewed in this state~~,~~ shall allow a policyholder the option to seek obstetrical and gynecological ~~physician~~ services directly from ~~an~~ *any of the following health care providers, provided that the services fall within the scope of practice of that provider:*

(1) An obstetrician and ~~gynecologist or directly from a~~ *gynecologist.*

(2) A certified nurse-midwife.

(3) A participating family practice physician and surgeon designated by the ~~plan~~ *insurer* as providing obstetrical and gynecological services.

(c) In implementing this section, ~~a disability~~ *an* insurer may establish reasonable provisions governing utilization protocols and the use of obstetricians and gynecologists, *certified nurse-midwives,* or family practice physicians and surgeons, as provided for in subdivision (b), provided that these provisions shall be consistent with the intent of this section and shall be those customarily applied

to other physicians and surgeons, including primary care physicians and surgeons, to whom the policyholder has direct access, and shall not be more restrictive for the provision of obstetrical and gynecological ~~physician~~ services. A policyholder shall not be required to obtain prior approval from another physician, another provider, or the insurer prior to obtaining direct access to obstetrical and gynecological ~~physician~~ services, but the insurer may establish reasonable requirements for the participating obstetrician and gynecologist, *the certified nurse-midwife,* or the family practice physician and surgeon, as provided in subdivision (b), to communicate with the policyholder's primary care physician regarding the policyholder's condition, treatment, and any need for followup care.

(d) This section shall not be construed to diminish the provisions of Section 10123.83.

~~(e) The Insurance Commissioner shall report to the Legislature, on or before January 1, 2000, on the implementation of this section.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Conway	**BILL NUMBER:**	AB 492
SPONSOR:	Conway	**BILL STATUS:**	Assembly
SUBJECT:	Community Colleges: nursing faculty	**DATE LAST AMENDED:**	Introduced 2/24/09

SUMMARY:
Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts. Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters. An exception is that a person serving as full-time or part-time clinical nursing faculty may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014. Existing law prohibits a district from employing a person pursuant to that nursing faculty except if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.

This bill would amend a section of the Education Code, relating to community colleges.

ANALYSIS:
This bill would authorize the employment of a clinical nursing faculty member as a temporary faculty member for up to the total number of semesters or quarters within any period of 3 consecutive academic years. The bill would also delete the hiring limitation that prevents an increase in the ratio of part-time to full-time nursing faculty in a district.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 492

Introduced by Assembly Member Conway

February 24, 2009

An act to amend Section 87482 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 492, as introduced, Conway. Community colleges: nursing faculty.

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters, except that a person serving as full-time or part-time clinical nursing faculty may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014. Existing law prohibits a district from employing a person pursuant to that nursing faculty exception if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.

This bill would revise that exception to authorize the employment of a clinical nursing faculty member as a temporary faculty member for up to the total number of semesters or quarters within any period of 3 consecutive academic years. The bill would also delete that hiring limitation that prevents an increase in the ratio of part-time to full-time nursing faculty in a district.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The majority of available nursing program slots are at the community college level for an associate degree.

(b) California Community Colleges graduated almost two-thirds of nursing students in the 2005–06 school year.

(c) According to a 2007 California Board of Registered Nursing (BRN) study, California nursing programs received 28,410 eligible applications for only 11,000 first-year slots for the 2005–06 school year. Therefore, there was a capacity to accommodate less than 40 percent of the applications received.

(d) According to the BRN study, the nursing faculty vacancy rate is growing statewide.

(e) California has an aging population and the demand for registered nurses is expected to increase.

(f) Fifty-three percent of registered nurses provide direct care to patients, 18 percent serve as supervisors or managers of health care personnel, and 29 percent work in fields such as education, research, and consulting.

(g) Fifty-five percent of the state's registered nurses received their nursing education in this state.

(h) All California registered nurses must have a license issued by the BRN, in addition to graduating from an approved nursing program and passing the national licensing examination.

SEC. 2. Section 87482 of the Education Code is amended to read:

87482. (a) (1) Notwithstanding Section 87480, the governing board of a community college district may employ any qualified individual as a temporary faculty member for a complete school

year but not less than a complete semester or quarter during a school year. The employment of those persons shall be based upon the need for additional faculty during a particular semester or quarter because of the higher enrollment of students during that semester or quarter as compared to the other semester or quarter in the academic year, or because a faculty member has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

(2) Employment of a person under this subdivision may be pursuant to contract fixing a salary for the entire semester or quarter.

(b) ~~No~~ *A* person, other than a person serving as clinical nursing faculty and exempted from this subdivision pursuant to paragraph (1) of subdivision (c), shall *not* be employed by any one district under this section for more than two semesters or three quarters within any period of three consecutive years.

(c) (1) Notwithstanding subdivision (b), a person serving as full-time clinical nursing faculty or as part-time clinical nursing faculty teaching 60 percent or more of the hours per week considered a full-time assignment for regular employees may be employed by any one district under this section for up to ~~four~~ *the total number of* semesters or ~~six~~ quarters within any period of three consecutive academic years ~~between July 1, 2007, and June 30, 2014, inclusive~~.

(2) A district that employs faculty pursuant to this subdivision shall provide data to the chancellor's office as to ~~how many~~ *the number of* faculty members were hired under this subdivision, and what the ratio of full-time to part-time faculty was for each of the three academic years prior to the hiring of faculty under this subdivision and for each academic year for which faculty is hired under this subdivision. This data shall be submitted, in writing, to the chancellor's office on or before June 30, 2012.

(3) The chancellor shall report, in writing, to the Legislature and the Governor on or before September 30, 2012, in accordance with data received pursuant to paragraph (2), ~~how many~~ *the number of* districts *that* hired faculty under this subdivision, ~~how many~~ *the number of* faculty members ~~were~~ hired under this subdivision, and ~~what~~ the ratio of full-time to part-time faculty was for these districts in each of the three academic years prior to the operation of this

subdivision and for each academic year for which faculty is hired under this subdivision.

~~(4) A district may not employ a person pursuant to this subdivision if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Nava and Arambula	**BILL NUMBER:**	AB 867
SPONSOR:	California State University	**BILL STATUS:**	Assembly
SUBJECT:	California State University: Doctor of Nursing Practice degree	**DATE LAST AMENDED:**	Introduced 2/26/09

SUMMARY:
Existing law establishes the California State University and its various campuses under the administration of the Trustees of the California State University. Existing law requires the California State University to offer undergraduate and graduate instruction through the master's degree in the liberal arts and sciences and professional education, including teacher education.

This bill would add an Article to the Education Code, relating to nursing degrees.

ANALYSIS:
This bill would authorize the California State University (CSU) to award the Doctor of Nursing Practice degree. The bill would distinguish the Doctor of Nursing Practice degree from research-based doctoral degrees offered at the University of California. The bill would require the programs to be designed to enable professionals to earn the degree while working full time, educate nurses for advanced practice, and prepare faculty to teach in postsecondary nursing programs.

Currently, the Education Code authorizes the CSU to award the Doctor of Education (Ed.D) degree focused solely on preparing administrative leaders for California public schools.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 867

Introduced by Assembly Members Nava and Arambula
(Principal coauthor: Assembly Member Galgiani)
(Coauthors: Assembly Members Beall, Block, Carter, Coto, Davis, De Leon, DeVore, Hagman, Huber, Bonnie Lowenthal, Mendoza, Monning, John A. Perez, Price, Ruskin, Salas, Saldana, and Villines)
(Coauthors: Senators Alquist, Ashburn, Benoit, Correa, Cox, DeSaulnier, Ducheny, Florez, Lowenthal, Maldonado, Romero, and Runner)

February 26, 2009

An act to add Article 9 (commencing with Section 89280) to Chapter 2 of Part 55 of Division 8 of Title 3 of the Education Code, relating to nursing degrees.

LEGISLATIVE COUNSEL'S DIGEST

AB 867, as introduced, Nava. California State University: Doctor of Nursing Practice degree.

Existing law establishes the California State University and its various campuses under the administration of the Trustees of the California State University. Existing law requires the California State University to offer undergraduate and graduate instruction through the master's degree in the liberal arts and sciences and professional education, including teacher education.

This bill would authorize the California State University to award the Doctor of Nursing Practice degree. The bill would distinguish the Doctor of Nursing Practice degree from research-based doctoral degrees offered at the University of California. The bill would require the programs to be designed to enable professionals to earn the degree while working

full time, train nurses for advanced practice, and prepare faculty to teach in postsecondary nursing programs.

The bill would require initial funding to come from existing budgets, without diminishing the quality of undergraduate programs or reducing enrollment therein.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The State of California faces an ever-increasing nursing shortage that jeopardizes the health and well-being of the state's citizens.

(b) Colleges and universities need to expand nursing education programs to prepare more nurses to meet the state's growing demand for nurses. An estimated state shortage of 47,600 registered nurses is expected by 2010, and by 2020 the shortage is projected to reach 116,600 according to the Governor's California Nurse Education Initiative Annual Report, September 2006.

(c) Well-trained nursing faculty are critical to the ability to expand nursing programs.

SEC. 2. Article 9 (commencing with Section 89280) is added to Chapter 2 of Part 55 of Division 8 of Title 3 of the Education Code, to read:

Article 9. Doctor of Nursing Practice Degree

89280. (a) Notwithstanding Section 66010.4, in order to meet specific nursing education needs in California, the California State University may award the Doctor of Nursing Practice degree, as described in this section.

(b) The authority to award the Doctor of Nursing Practice degree is limited to the discipline of nursing practice. The Doctor of Nursing Practice degree offered by the California State University shall be distinguished from research-based doctoral degrees offered at the University of California.

(c) The Doctor of Nursing Practice degree program offered by the California State University shall train nurses for advanced

nursing practice and prepare faculty to teach in postsecondary nursing education programs. The degree programs shall be designed to enable professionals to earn the degree while working full time.

(d) The California State University shall follow all of the following requirements:

(1) Funding on a per full-time equivalent student (FTES) basis for each new student in these degree programs shall be within the California State University's enrollment growth levels as agreed to in the annual Budget Act. Enrollments in these programs shall not alter the California State University's ratio of graduate instruction to total enrollment, and shall not diminish enrollment growth in university undergraduate programs. Funding provided from the state for each FTES shall be at the agreed-upon marginal costs calculation that the California State University receives for graduate enrollment.

(2) Each student in the programs authorized by this article shall be charged fees in an amount that is no higher than the rate charged for students in state-supported doctoral degree programs at the University of California, including joint programs of the California State University and the University of California.

(3) The California State University shall provide any initial funding needed for the programs authorized by this article from within existing budgets for academic programs support, without diminishing the quality of program support offered to California State University undergraduate programs. Funding of these programs shall not reduce undergraduate enrollments at the California State University.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Emmerson	**BILL NUMBER:**	AB 877
SPONSOR:	Emmerson	**BILL STATUS:**	Assembly
SUBJECT:	Healing Arts	**DATE LAST AMENDED:**	Introduced 2/26/09

SUMMARY:
Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs and the department is under the control of the Director of Consumer Affairs.

This bill would create an Act relating to healing arts.

ANALYSIS:
This bill would declare the intent of the Legislature to enact legislation, that would authorize the Director of Consumer Affairs, to appoint a committee to perform occupational analyses on various healing arts practices to include but not be limited to: education, training, and experience, and to prepare a written report on any bill introduced in either house of the Legislature that seeks to expand the scope of a healing arts practice. The committee would be comprised of seven members:

- Two academics representing each side of the scope of practice issue.
- One practitioner representing each side of the scope of practice issue.
- One public member.

The cost of the occupational analyses and the written reports would be borne by the healing arts practice requesting the expanded scope of practice.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 877

Introduced by Assembly Member Emmerson

February 26, 2009

An act to relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 877, as introduced, Emmerson. Healing arts.

Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs and the department is under the control of the Director of Consumer Affairs.

This bill would declare the intent of the Legislature to enact legislation authorizing the Director of Consumer Affairs to appoint a specified committee of 7 members to perform occupational analyses, as specified, and to prepare written reports on any bill that seeks to expand the scope of a healing arts practice.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. (a) It is the intent of the Legislature to enact legislation that would authorize the Director of Consumer Affairs to appoint a committee to perform occupational analyses on various healing arts practices, to include, but not be limited to, education, training, and experience, and to prepare a written report on any bill introduced in either house of the Legislature that seeks to

expand the scope of a healing arts practice as described in Division 2 of the Business and Professions Code.

(b) It is the intent of the Legislature that the committee be comprised of seven members as follows: two academics representing each side of the scope of practice issue, one practitioner representing each side of the scope of practice issue, and one public member.

(c) It is further the intent of the Legislature that the cost of the occupational analyses and the written reports be borne on the healing arts practice requesting the expanded scope of practice.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Carter	**BILL NUMBER:**	AB 1116
SPONSOR:	Carter	**BILL STATUS:**	Assembly
SUBJECT:	Cosmetic surgery	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law, the Dental Practice Act, establishes the Dental Board of California in the Department of Consumer Affairs which licenses dentists and regulates their practice, including dentists who hold a permit to perform oral and maxillofacial surgery. Existing Law, the Medical Practice Act, establishes the Medical Board of California in the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

The Medical Practice Act requires specified disclosures to patients undergoing procedures involving collagen injections, and also requires the Medical Board of California to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital. Existing law makes a violation of these provisions a misdemeanor.

This bill would add sections to the Business and Professions Code, relating to cosmetic surgery.

ANALYSIS:
This bill would enact the Donda West Law which will prohibit the performance of an elective cosmetic surgery procedure on a patient unless prior to the surgery the patient has received a physical examination, including a complete medical history, and has received written clearance for the procedure. This must be completed by the licensed physician and surgeon, dentist performing the cosmetic surgery, another licensed physician, certified nurse practitioner, or a licensed physician assistant.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 1116

Introduced by Assembly Member Carter

February 27, 2009

An act to add Sections 1638.2 and 2259.8 to the Business and Professions Code, relating to cosmetic surgery.

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as introduced, Carter. Cosmetic surgery.

Existing law, the Dental Practice Act, establishes the Dental Board of California in the Department of Consumer Affairs, which licenses dentists and regulates their practice, including dentists who hold a permit to perform oral and maxillofacial surgery. Existing law, the Medical Practice Act, establishes the Medical Board of California in the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

The Medical Practice Act requires specified disclosures to patients undergoing procedures involving collagen injections, and also requires the Medical Board of California to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital. Existing law makes a violation of these provisions a misdemeanor.

This bill would enact the Donda West Law, which would prohibit the performance of an elective cosmetic surgery procedure on a patient unless, prior to surgery, the patient has received a physical examination by, and has received written clearance for the procedure from, the licensed physician and surgeon or dentist performing the cosmetic surgery or another licensed physician and surgeon, or a certified nurse practitioner or a licensed physician assistant, as specified. The bill would

require the physical examination to include the taking of a complete medical history. The bill would also provide that a violation of these provisions would not constitute a crime.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Donda West Law.

SEC. 2. Section 1638.2 is added to the Business and Professions Code, to read:

1638.2. (a) Notwithstanding any other provision of law, a person licensed pursuant to Section 1634 who holds a permit to perform elective facial cosmetic surgery issued pursuant to this article may not perform elective facial cosmetic surgery on a patient, unless the patient has received a physical examination by, and written clearance for the procedure from, either of the following:

(1) A licensed physician and surgeon.

(2) The person licensed pursuant to Section 1634 who holds a permit to perform elective facial cosmetic surgery issued pursuant to this article and who will be performing the surgery.

(b) The physical examination described in subdivision (a) shall include the taking of a complete medical history.

(c) A violation of this section shall not constitute a crime.

SEC. 3. Section 2259.8 is added to the Business and Professions Code, to read:

2259.8. (a) Notwithstanding any other provision of law, a cosmetic surgery procedure may not be performed on a patient unless, prior to surgery, the patient has received a physical examination by, and written clearance for the procedure from, any of the following:

(1) The physician and surgeon who will be performing the surgery.

(2) Another licensed physician and surgeon.

(3) A certified nurse practitioner, in accordance with a certified nurse practitioner's scope of practice, unless limited by protocols or a delegation agreement.

(4) A licensed physician assistant, in accordance with a licensed physician assistant's scope of practice, unless limited by protocols or a delegation agreement.

(b) The physical examination described in subdivision (a) shall include the taking of a complete medical history.

(c) "Cosmetic surgery" means an elective surgery that is performed to alter or reshape normal structures of the body in order to improve the patient's appearance, including, but not limited to, liposuction and elective facial cosmetic surgery.

(d) Section 2314 shall not apply to this section.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Fuller	**BILL NUMBER:**	AB 1295
SPONSOR:	Fuller	**BILL STATUS:**	Assembly
SUBJECT:	Postsecondary education: nursing degree programs	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law establishes the University of California, the California State University, and the California Community Colleges as the 3 segments of public postsecondary education in this state. Under existing law, the Chancellor of the California Community Colleges and California Stat University must encourage if not require these colleges to standardize all nursing education program prerequisites on a statewide basis as well as negotiate and implement articulation agreements among the campuses and districts of these 2 segments.

Existing law, the Entry-Level Master's Nursing Programs Act, among other things, requires the Chancellor of the California State University to determine which campuses are eligible for supplemental funds for establishing entry-level master's programs in nursing.

Existing law expresses the intent of the Legislature that, with respect to nursing programs at the University of California, the Regents of the University of California should expand nursing programs to enroll additional students.

This bill would create an Act, relating to nursing degree programs.

ANALYSIS:
This bill would express the intent of the Legislature to enact legislation to create model programs that facilitate and expedite the following:

- A program for registered nurses who have completed associate degrees in nursing, the ability to complete coursework necessary to earn a bachelor of science in nursing degree or master of science in nursing degree.
- A program for students who have completed baccalaureate degrees and enrolled in associate degree in nursing programs, to complete a masters of science in nursing.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 1295

Introduced by Assembly Member Fuller

February 27, 2009

An act relating to nursing degree programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1295, as introduced, Fuller. Postsecondary education: nursing degree programs.

Existing law establishes the University of California, the California State University, and the California Community Colleges as the 3 segments of public postsecondary education in this state. Under existing law, the Chancellor of the California Community Colleges is required to encourage community college districts to, and the Chancellor of the California State University is required to, standardize all nursing education program prerequisites on a statewide basis and negotiate and implement articulation agreements among the campuses and districts of these 2 segments.

Existing law, the Entry-Level Master's Nursing Programs Act, among other things, requires the Chancellor of the California State University to determine which campuses are eligible for supplemental funds for establishing entry-level master's programs in nursing.

Existing law expresses the intent of the Legislature that, with respect to nursing programs at the University of California, the Regents of the University of California should expand nursing programs to enroll additional students, as specified.

This bill would express the intent of the Legislature to enact legislation to create a model program that facilitates and expedites, for licensed registered nurses who have completed associate degrees in nursing, the

completion of coursework necessary to earn a bachelor of science in nursing degree or a master of science in nursing degree and to create programs that facilitate the completion of master of science in nursing degrees by students with baccalaureate degrees who are enrolled in associate degree nursing programs.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to enact legislation to do both of the following:

(a) Create a model program that facilitates and expedites, for licensed registered nurses who have completed associate degrees in nursing, the completion of coursework necessary to earn a bachelor of science in nursing degree or master of science in nursing degree.

(b) Create programs that facilitate the completion of master of science in nursing degrees by students who have completed baccalaureate degrees and who are enrolled in associate degree in nursing programs.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Swanson	**BILL NUMBER:**	AB 1430
SPONSOR:	California School Nurse Association	**BILL STATUS:**	Assembly
SUBJECT:	Pupil Health: licensed nurses	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law provides that any pupil who is required to take medication prescribed for him or her by a physician and surgeon during the regular school day, may be assisted by the school nurse, other designated school personnel, or may carry and self-administer prescription auto-injectable epinephrine if the school district receives the appropriate written statements, as prescribed, from the physician and the parent, foster parent, or guardian of the pupil.

The existing Nursing Practice Act regulates the practice of nursing, which is defined in the act as those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or treatments, and that require a substantial amount of scientific knowledge or technical skill.

This bill would add a section to the Education Code, relating to pupil health.

ANALYSIS:
This bill would express findings and declarations of the Legislature with respect to a Superior Court ruling relating to the administration of medication to students in California public elementary and secondary schools. The court specifically found that state law authorizes the administration of medication, to a student only by a licensed healthcare professional acting within the scope of practice for which he or she is licensed to perform services. This bill would require that any medication prescribed for a student that must be taken during the regular school day, must be administered by a licensed nurse in compliance with the nursing practice act.

Currently, by law, unlicensed personnel may administer auto-injectable epinephrine and glucagon to students in elementary and secondary schools as prescribed and under specific circumstances.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 1430

Introduced by Assembly Member Swanson

February 27, 2009

An act to add Section 49423.4 to the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1430, as introduced, Swanson. Pupil health: licensed nurses.

Existing law establishes the public elementary and secondary school system in this state. Under this system, school districts throughout the state provide instruction to pupils in kindergarten and grades 1 to 12, inclusive, at the public elementary and secondary schools.

Existing law provides that any pupil who is required to take, during the regular schoolday, medication prescribed for him or her by a physician and surgeon, may be assisted by the school nurse or other designated school personnel, or may carry and self-administer prescription auto-injectable epinephrine if the school district receives the appropriate written statements, as prescribed, from the physician and the parent, foster parent, or guardian of the pupil.

The existing Nursing Practice Act regulates the practice of nursing, which is defined in the act as those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill.

This bill would express findings and declarations of the Legislature with respect to a Superior Court ruling relating to the administration of medication to pupils in California public elementary and secondary

schools. This bill, notwithstanding the provision referenced above that authorizes assistance to be given to a pupil by school personnel during the schoolday under certain conditions, would require that any medication that is administered to a pupil who is required to take, during the regular schoolday, medication prescribed for him or her by a physician or surgeon shall be administered by a licensed nurse in compliance with the Nursing Practice Act.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code) was designed to protect patients in the administration of medications.

(b) According to the ruling of the Superior Court of California in and for the County of Sacramento filed on December 26, 2008, in the case of American Nurses Association et al. v. O'Connell et al., the administration of medication to pupils in California public elementary and secondary schools must be accomplished in accordance with the requirements of the Nursing Practice Act.

(c) The court specifically found that state laws authorize the administration of medication to a student only by a licensed health care professional acting within the scope of practice for which he or she is licensed to perform services.

(d) The court noted the statutorily authorized exceptions that authorize an unlicensed person to administer medication, but specifically noted that assistance within the meaning of Section 49423 of the Education Code does not encompass the administration of medications. The court ruled that the plain meaning of assistance and administration, as well as the legislative history of the section, indicate that assistance is distinct from, rather than synonymous or interchangeable with, administration.

SEC. 2. Section 49423.4 is added to the Education Code, to read:

49423.4. Notwithstanding Section 49423, any medication that is administered to a pupil who is required to take, during the regular

schoolday, medication prescribed for him or her by a physician or surgeon shall be administered by a licensed nurse in compliance with the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code). Nothing in this section prohibits an individual authorized under Section 49414 or 49414.5 from rendering emergency medical aid.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Ruskin	**BILL NUMBER:**	ACR 31
SPONSOR:	California Federation of Teachers	**BILL STATUS:**	Assembly
SUBJECT:	California Community Colleges: Faculty	**DATE LAST AMENDED:**	Introduced 2/23/09

SUMMARY:
This measure would express the intent of the Legislature that the California Community Colleges increase the number of full-time tenured and tenure-track faculty and increase salaries and specified benefits for part-time and nontenure-track faculty.

ANALYSIS:
This resolution states that, commencing in 2010-11; each campus with less than 75 percent of its full-time equivalent faculty tenured or tenure-track should increase this percentage by at least 10 percent each year, and should reach 75 percent no later than 2017-18. It also states that each district should determine a minimum salary goal for part-time and temporary faculty that is prorated to the salaries of comparable full-time tenured faculty, and that part-time faculty should be able to accumulate seniority.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Assembly Concurrent Resolution No. 31

Introduced by Assembly Member Ruskin

February 23, 2009

Assembly Concurrent Resolution No. 31—Relative to the California Community Colleges.

LEGISLATIVE COUNSEL'S DIGEST

ACR 31, as introduced, Ruskin. California Community Colleges: faculty.

This measure would express the intent of the Legislature that the California Community Colleges increase the number of full-time tenured and tenure-track faculty and increase salaries and specified benefits for part-time and nontenure-track faculty.

Fiscal committee: yes.

WHEREAS, An increasing percentage of the courses offered in public colleges and universities in California are being taught by part-time and other nontenure-track faculty; and

WHEREAS, The system of higher education within the California Community Colleges has become dependent upon a contingent workforce that is poorly compensated and too often lacks basic supports, including health insurance; and

WHEREAS, These twin developments, the economic exploitation of part-time and other contingent faculty and the shrinking of the ranks of full-time tenured faculty, limit the ability of the state's public higher education system to provide high-quality education, research, and support for economic development; and

WHEREAS, Providing sufficient numbers of faculty with full-time tenured and tenure-track employment and improving the conditions under which part-time and other nontenure-track faculty work will result in better service for students, communities, and the economy; and

WHEREAS, Fair tax policies are the financial foundation of a modern society; and

WHEREAS, Property taxes are the most reliable revenue source for public services; and

WHEREAS, Proposition 13, an initiative measure approved by voters at the June 6, 1978, direct primary election, moved education decisionmaking to the state level and created difficulties in funding education; and

WHEREAS, Federal tax breaks have caused cuts in federal support for higher education programs; and

WHEREAS, Funds have been provided through the annual Budget Act to assist community college districts; and

WHEREAS, Many community college districts have made substantial progress in increasing the number of full-time tenured faculty, but too many districts have not; and

WHEREAS, The principle of equal pay for equal work requires that part-time faculty be provided with compensation that is directly proportional to the compensation of full-time faculty; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the intent of the Legislature that at least 75 percent of the full-time equivalent faculty on each campus of the California Community Colleges be tenured or tenure-track; and be it further

Resolved, That it is further the intent of the Legislature that all part-time and temporary faculty receive pay and benefits that are equal to those of tenured and tenure-track faculty of comparable qualifications doing comparable work, as determined on a pro rata basis; and be it further

Resolved, That each community college district should determine the number of undergraduate courses that will be taught by part-time, temporary, nontenured, tenure-track, and tenured faculty; and be it further

Resolved, That the longstanding policy of the Board of Governors of the California Community Colleges that at least 75

percent of the hours of credit instruction in the colleges be taught by full-time instructors should be advanced; and be it further

Resolved, That commencing in the fall term of the 2010–11 academic year, and continuing each academic term thereafter, each campus of a community college district with less than 75 percent of its full-time equivalent faculty being tenured and tenure-track faculty, should increase the percentage of full-time tenured and tenure-track faculty so that the 75 percent minimum is accomplished no later than the fall term of the 2017–18 academic year; and be it further

Resolved, That commencing with the fall term of the 2010–11 academic year, each campus of a community college district should reduce the gap between 75 percent and the current percentage of full-time equivalent faculty who are tenured or tenure-track by at least 10 percent each academic year; and be it further

Resolved, That each community college district should develop and adopt plans to meet the requirements related to increasing the percentage of full-time tenured and tenure-track faculty; and be it further

Resolved, That the development and adoption of plans related to increasing the percentage of full-time tenured and tenure-track faculty should be subject to a collective bargaining process that includes the exclusive representatives of the full-time and part-time faculty serving at that institution; and be it further

Resolved, That each community college district should determine a minimum salary goal for part-time and temporary faculty employed on each campus that is prorated to the salaries of full-time tenured faculty who have comparable qualifications and do comparable work; and be it further

Resolved, That commencing with the fall term of the 2010–11 academic year, each community college district should increase part-time and nontenure-track faculty salary by an amount sufficient to close any gap between the pro rata salaries of part-time faculty and full-time faculty no later than the fall term of the 2017–18 academic year; and be it further

Resolved, That the determination of the method of prorating salaries should be subject to a collective bargaining process that includes the exclusive representatives of faculty serving at that institution; and be it further

Resolved, That a community college district should reduce the gap between the salaries of part-time and temporary faculty and full-time tenured and tenure-track faculty by at least 15 percent each academic year; and be it further

Resolved, That if, during a calendar year, a part-time or other nontenure-track faculty member of a community college district teaches at least 40 percent of the number of hours per week that is considered to be a full-time assignment for tenured and tenure-track faculty, that part-time faculty member should be eligible for the same health care benefits that are received by tenured and tenure-track faculty at that campus; and be it further

Resolved, That each community college district should establish a process under which part-time and other nontenure-track faculty may, after successful completion of a probationary period, receive timely notice of, and priority consideration for, appropriate teaching assignments in future academic terms and preferential consideration for attaining a tenure-track position when one becomes available; and be it further

Resolved, That the process should ensure that part-time and other nontenure-track faculty receive the accumulation of seniority, notification about job openings at that institution prior to the publication of announcements of those openings outside of that institution, and preferential consideration for appointments to tenure-track positions; and be it further

Resolved, That the implementation of these requirements should be subject to a collective bargaining process that includes the exclusive representatives of the full-time and part-time faculty serving at that institution; and be it further

Resolved, That each community college district should make progress toward the goals described in this measure; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the governing board of each district of the California Community Colleges and to the author for distribution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Wright	**BILL NUMBER:**	SB 155
SPONSOR:	Wright	**BILL STATUS:**	Senate
SUBJECT:	Student financial aid: Assumption Program of Loans for Education: school nurses	**DATE LAST AMENDED:**	Introduced 2/12/09

SUMMARY:
Existing law provides for a program for the assumption of certain student loans of students who agree to enter into the teaching profession, known as the Assumption Program of Loans for Education (APLE), in designated subject matter shortage areas and in schools serving large populations of pupils from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with other specified characteristics.

This bill would amend sections of the Education Code, relating to student financial aid.

ANALYSIS:
This bill would expand the APLE to provide for the assumption of student loans of students who agree to be employed as a school nurse in a school or school district that meets prescribed requirements such as:

- Completion of at least 60 semester units, or the equivalent, and enrolled in an academic program leading to a baccalaureate degree, at an eligible institution.
- Enrollment in a program to complete training or coursework in order to be employed as a school nurse in an eligible institution.
- Agreement to be employed full time for at least 4 consecutive academic years after obtaining as appropriate nursing credential.

The terms of the loan assumption, after employment as a school nurse, would be as follows:

- 1 complete year - $2000 assumed.
- 2 consecutive years - $3000 assumed.
- 3 consecutive years - $3000 assumed.
- 4 consecutive years - $3000 assumed.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 155

Introduced by Senator Wright

February 12, 2009

An act to amend Sections 69612, 69613, 69613.2, 69613.4, 69613.6, and 69615 of the Education Code, relating to student financial aid.

LEGISLATIVE COUNSEL'S DIGEST

SB 155, as introduced, Wright. Student financial aid: Assumption Program of Loans for Education: school nurses.

Existing law provides for a program for the assumption of certain student loans of students who agree to enter into the teaching profession, known as the Assumption Program of Loans for Education (APLE), in designated subject matter shortage areas and in schools serving large populations of pupils from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with other specified characteristics.

This bill would expand the APLE to additionally provide for the assumption of student loans of students who agree to be employed as a school nurse in a school or school district that meets prescribed requirements. The bill would make conforming changes to the provisions governing the APLE.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 69612 of the Education Code is amended to read:

69612. (a) The Legislature finds and declares all of the following:

(1) The growing shortage of high-quality teachers is most serious in particular subject areas, partly due to the shortage of students in these fields who enter the teaching profession.

(2) Many school districts have difficulty recruiting and retaining high-quality teachers for schools ranked in decile 1 or 2 on the Academic Performance Index, for pupils with special needs, for schools serving rural areas or large populations of pupils from low-income and linguistic minority families, and for schools with a high percentage of teachers holding emergency-type permits.

(3) The rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make the availability of financial aid and loan repayment assistance options an important consideration in a student's decision to pursue a postsecondary education.

(b) It is, therefore, the intent of the Legislature that the Assumption Program of Loans for Education be designed to provide veteran teachers and outstanding postsecondary students, particularly economically disadvantaged students, with the assurance of financial assistance to encourage them to complete postsecondary education programs leading to teaching credentials *and training or coursework necessary to be employed as a school nurse*, and to seek employment as ~~teachers~~ *a school nurse or a teacher* in designated subject-matter shortage areas or in schools serving a large population of pupils from low-income families, schools with a high percentage of teachers holding emergency-type permits, or schools ranked in the lowest two deciles on the Academic Performance Index.

SEC. 2. Section 69613 of the Education Code is amended to read:

69613. (a) Program participants shall meet all of the following eligibility criteria prior to selection in the program and shall continue to meet these criteria, as appropriate, during the payment periods:

(1) The applicant ~~has completed at~~ *meets one of the following requirements:*

(A) The applicant has completed at least 60 semester units, or the equivalent, and is enrolled in an academic program leading to a baccalaureate degree at an eligible institution, has agreed to participate in a teacher internship program, or has been admitted

to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(B) The applicant is enrolled in a program to complete training or coursework in order to be employed as a school nurse and agrees to work as a school nurse in an eligible school.

(2) The applicant is currently enrolled in, or has been admitted to, a program in which he or she will be enrolled on at least a half-time basis, as determined by the participating institution. The applicant shall agree to maintain satisfactory academic progress and a minimum of half-time enrollment, as defined by the participating eligible institution.

(A) Except as provided in subparagraphs (B) and (C), if a person participating in the program fails to maintain at least half-time enrollment, as required by this article, under the terms of the agreement pursuant to paragraph (2), the loan assumption agreement shall be invalidated and the participant shall assume full liability for all student loan obligations. This subparagraph shall not apply if the participant is in his or her final semester or quarter in school and has no additional coursework required to obtain his or her teaching credential *or appropriate nursing credential*.

(B) Notwithstanding subparagraph (A), if a program participant is unable to maintain at least half-time enrollment due to serious illness, pregnancy, or other natural causes, or is called to active military duty status, the participant is not required to assume full liability for the student loan obligation for a period not to exceed one calendar year, unless approved by the commission for a longer period.

(C) If a natural disaster prevents a program participant from maintaining at least half-time enrollment due to the interruption of instruction at the eligible institution, the term of the loan assumption agreement shall be extended for a period not to exceed one calender year, unless approved by the commission for a longer period.

(3) The applicant has been judged by his or her postsecondary institution, school district, or county office of education to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) The applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any educational loan program approved by the Student Aid Commission.

(5) The applicant *meets one of the following requirements:*

(A) The applicant has agreed to teach full time for at least four consecutive academic years, or on a part-time basis for the equivalent of four full-time academic years, after obtaining a teaching credential, in a public elementary or secondary school in this state, in a subject area that is designated as a current or projected shortage area by the Superintendent of Public Instruction, or, on the date the teacher is hired, at an eligible school.

(B) The applicant has agreed to be employed full time for at least four consecutive academic years after obtaining an appropriate nursing credential, in a public elementary or secondary school in this state, that, at the time that the school nurse is hired, is an eligible school, or in a public elementary or secondary school district in this state that has within it at least one school, that is in the nurse's service territory, that at the time the nurse is hired, is an eligible school.

(b) An agreement shall remain valid even if the subject area under which an applicant becomes eligible to enter into an agreement ceases to be a designated shortage field by the time the applicant becomes a teacher.

(c) For the purposes of calculating eligible years of teaching for the redemption of an award, the designation by the Superintendent of Public Instruction of a newly opened school pursuant to Section 52056 shall apply retroactively from the date the school first opened.

(d) A person participating in the program pursuant to this section shall not enter into more than one agreement.

(e) A person participating in the program pursuant to this section shall not owe a refund on any state or federal educational grant or defaulted on any student loan.

(f) Notwithstanding any other provision of this section, a credentialed teacher teaching in a public school ranked in the lowest two deciles on the Academic Performance Index pursuant to Section 52052, possesses a clear multiple subject or single subject teaching credential or level II education specialist credential and who has not otherwise participated in the program established by this article, is eligible to enter into an agreement for loan assumption pursuant to this article. The number of loan assumption agreements provided pursuant to this subdivision shall not exceed 400 per year. The commission shall develop and adopt regulations for the implementation of this subdivision by January 1, 2010.

SEC. 3. Section 69613.2 of the Education Code is amended to read:

69613.2. The commission shall commence loan assumption payments, as specified in Section 69613.4, upon verification that the applicant has fulfilled all of the following:

(a) The applicant has received a California preliminary or professional clear credential, or an equivalent credential from another state, authorizing service for kindergarten or any of grades 1 to 12, inclusive.

(b) The applicant has provided full-time classroom instruction *or employment as a school nurse*, or the equivalent on a part-time basis, in a public elementary or secondary school for the equivalent of one school year.

(c) The applicant has met the requirements of the agreement and all other pertinent conditions of this article.

SEC. 4. Section 69613.4 of the Education Code is amended to read:

69613.4. (a) The terms of a loan assumption granted under this article shall be as follows, subject to the specific terms of each agreement:

(1) After a program participant has completed one school year of classroom instruction *or employment as a school nurse* pursuant to Section 69613.2, the commission shall assume up to two thousand dollars ($2,000) of the participant's outstanding liability under one or more of the designated educational loan programs.

(2) After a program participant has completed two consecutive school years of instruction *or employment as a school nurse*, the commission shall assume up to an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or

more of the designated educational loan programs, for a total loan assumption of up to five thousand dollars ($5,000).

(3) After a program participant has completed three consecutive school years of teaching service *or employment as a school nurse*, the commission shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated educational loan programs, for a total loan assumption of up to eight thousand dollars ($8,000).

(4) After a program participant has completed four consecutive school years of teaching service *or employment as a school nurse*, the commission shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated educational loan programs, for a total loan assumption of up to eleven thousand dollars ($11,000).

(b) For purposes of this section, "school year" means at least 175 school days or its equivalent.

(c) An applicant who ~~teaches~~ *is employed* on less than a full-time basis may participate in the program, but shall not be eligible for loan repayment until that person ~~teaches~~ *completes teaching service or employment as a school nurse* for the equivalent of a full-time academic year.

SEC. 5. Section 69613.6 of the Education Code is amended to read:

69613.6. (a) Except as provided in subdivision (b), if a program participant fails to complete a minimum of four consecutive school years of classroom instruction *or employment as a school nurse* on a full-time basis or the equivalent on a part-time basis as required by this article, under the terms of the agreement pursuant to paragraph (5) of subdivision (a) of Section 69613, the participant shall assume full liability for all student loan obligations remaining after the commission's assumption of loan liability for the last year of qualifying teaching service pursuant to Section 69613.

(b) Notwithstanding subdivision (a), if a program participant becomes unable to complete one of the four consecutive years of teaching service *or employment as a school nurse* on a full-time basis or the equivalent on a part-time basis due to serious illness, pregnancy, or other natural causes, or is called to active military duty status, the participant shall receive a deferral of the resumption

of full liability for the loan for a period not to exceed one calendar year, unless approved by the commission for a longer period. The commission shall make no further payments under the loan assumption agreement until the applicable teaching requirements specified in Section 69613.2 have been specified.

(c) (1) Notwithstanding subdivision (a), a program participant shall receive a deferral of the resumption of full liability for the loan for a period not to exceed one calendar year, unless approved by the commission for a longer period, if the participant becomes unable to complete one of the four consecutive years of teaching service *or employment as a school nurse* due to being laid off, reassigned, or other reasons beyond the control of the participant, as determined by the commission.

(2) The commission shall make no further payments under the loan assumption agreement until the applicable ~~teaching~~ requirements specified in Section 69613.2 have been satisfied.

(d) If a program participant fails to redeem an agreement for student loan assumption within 10 years of the agreement's issuance, the participant shall assume full liability for all student loan obligations.

SEC. 6. Section 69615 of the Education Code is amended to read:

69615. (a) The commission shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time during which an agreement shall remain valid, the reallocation of resources in light of agreements that are not utilized by program participants, the failure, for any reason, of a program participant to complete a minimum of four consecutive years of classroom instruction *or employment as a school nurse*, and the development of projections for funding purposes.

(b) The commission shall solicit the advice of representatives from postsecondary education institutions, the State Department of Education, the Commission on Teacher Credentialing, school districts, and county offices of education regarding proposed rules and regulations.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Ashburn	**BILL NUMBER:**	SB 182
SPONSOR:	Ashburn	**BILL STATUS:**	Senate
SUBJECT:	Community college nursing faculty	**DATE LAST AMENDED:**	Introduced 2/17/09

SUMMARY:
Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts. Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters, except that a person serving as full-time or part-time clinical nursing faculty may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014.

Existing law requires the board of governors to adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction taught by full-time instructors.

This bill would amend sections of the Education Code, relating to community colleges.

ANALYSIS:
This bill would delete the limitation that temporary clinical nursing faculty be employed for not more than 4 semesters or 6 quarters. The bill would make conforming changes.
This bill would exclude the percentage of hours of credit instruction taught by full-time clinical nursing faculty from the minimum standards and would make conforming changes.

During the 2007-2008 Legislative Session, the board followed SB 182(Ashburn) that had similar language and provisions and was in support of the bill. It did not make it through the Legislature, due to failure of passage in committee.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 182

Introduced by Senator Ashburn

February 17, 2009

An act to amend Sections 87482, 87482.6, and 87482.7 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 182, as introduced, Ashburn. Community college nursing faculty.

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters, except that a person serving as full-time or part-time clinical nursing faculty may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014.

This bill would delete the limitation that temporary clinical nursing faculty be employed for not more than 4 semesters or 6 quarters. The bill would make conforming changes.

(2) Existing law requires the board of governors to adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction taught by full-time instructors.

This bill would exclude the percentage of hours of credit instruction taught by full-time clinical nursing faculty from the minimum standards and would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 87482 of the Education Code is amended to read:

87482. (a) (1) Notwithstanding Section 87480, the governing board of a community college district may employ any qualified individual as a temporary faculty member for a complete school year but not less than a complete semester or quarter during a school year. The employment of those persons shall be based upon the need for additional faculty during a particular semester or quarter because of the higher enrollment of students during that semester or quarter as compared to the other semester or quarter in the academic year, or because a faculty member has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

(2) Employment of a person under this subdivision may be pursuant to contract fixing a salary for the entire semester or quarter.

(b) No person~~, other than a person serving as clinical nursing faculty and exempted from this subdivision pursuant to paragraph (1) of subdivision (c),~~ shall be employed by any one district under this section for more than two semesters or three quarters within any period of three consecutive years.

(c) (1) Notwithstanding subdivision (b), a person serving as full-time clinical nursing faculty or as part-time clinical nursing faculty teaching 60 percent or more of the hours per week considered a full-time assignment for regular employees may be employed by any one district under this section~~ for up to four semesters or six quarters within any period of three consecutive academic years~~ between July 1, 2007, and June 30, 2014, inclusive.

(2) A district that employs faculty pursuant to this subdivision shall provide data to the chancellor's office as to how many faculty members were hired under this subdivision, and what the ratio of

full-time to part-time faculty was for each of the three academic years prior to the hiring of faculty under this subdivision and for each academic year for which faculty is hired under this subdivision. This data shall be submitted, in writing, to the chancellor's office on or before June 30, 2012.

(3) The chancellor shall report, in writing, to the Legislature and the Governor on or before September 30, 2012, in accordance with data received pursuant to paragraph (2), how many districts hired faculty under this subdivision, how many faculty members were hired under this subdivision, and what the ratio of full-time to part-time faculty was for these districts in each of the three academic years prior to the operation of this subdivision and for each academic year for which faculty is hired under this subdivision.

~~(4) A district may not employ a person pursuant to this subdivision if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.~~

SEC. 2. Section 87482.6 of the Education Code is amended to read:

87482.6. (a) Until the provisions of Section 84750 regarding program-based funding are implemented by a standard adopted by the board of governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full-time instructors, the Legislature wishes to recognize and make efforts to address longstanding policy of the board of governors that at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors. To this end, community college districts which have less than 75 percent of their hours of credit instruction taught by full-time instructors shall apply a portion of the program improvement allocation received pursuant to Section 84755 as follows:

(1) Districts which, in the prior fiscal year, had between 67 percent and 75 percent of their hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 33 percent of the district's program improvement allocation.

(2) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 40 percent of the district's program improvement allocation.

Districts which maintain 75 percent or more of their hours of credit instruction taught by full-time instructors shall otherwise be free to use their program improvement allocation for any of the purposes specified in Section 84755.

(b) The board of governors shall adopt regulations for the effective administration of this section. Unless and until amended by the board of governors, the regulations shall provide as follows:

(1) In computing the percentage of hours of credit instruction taught by full-time instructors, the hours of overload teaching by full-time instructors shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(2) A full-time instructor shall be defined as any regular and contract faculty member teaching credit instruction.

(3) The chancellor shall compute and report to each community college district the number of full-time faculty (FTF) which are to be secured through the use of the prescribed portion of program improvement revenue allocated to each district. This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide average hourly rate of compensation for part-time instructors times the statewide average full-time teaching load). If the quotient is not a whole number, then the quotient shall be rounded down to the nearest whole number. If this quotient, once applied, will result in the district exceeding the 75 percent standard, the chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

By March 15th of each year, the chancellor shall report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill.

(4) On or before December 31, 1991, the chancellor shall determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to paragraph (3) for the 1989–90 and 1990–91 fiscal years. To the extent that the cumulative number of FTF have not been retained, the chancellor shall reduce the district's base budget for 1991–92 and subsequent fiscal years by an amount equivalent to the average replacement cost times the deficiency in the number of FTF.

(c) For purposes of this section, the percentage of hours of credit instruction shall exclude the hours taught by part-time and full-time clinical nursing faculty.

SEC. 3. Section 87482.7 of the Education Code is amended to read:

87482.7. (a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.

(b) Upon notification by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the Employment Opportunity Fund pursuant to Section 87107.

(c) The minimum standards established under subdivision (a) shall exclude the hours of credit instruction taught by part-time and full-time clinical nursing faculty.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Negrete McLeod	**BILL NUMBER:**	SB 294
SPONSOR:	California Nurse Practitioner Association	**BILL STATUS:**	Senate
SUBJECT:	Nurse practitioners	**DATE LAST AMENDED:**	Introduced 2/25/09

SUMMARY:
Existing law, the Nursing Practice Act, provides for the certification and regulation of nurse practitioners and nurse-midwives by the Board of Registered Nursing and specifies requirements for qualification or certification as a nurse practitioner. Under the act, the practice of nursing is defined, in part, as providing direct and indirect patient care services, as specified, including the dispensing of drugs or devices under specified circumstances. The practice of nursing is also described as the implementation, based on observed abnormalities, of standardized procedures, defined as policies and protocols developed by specified facilities in collaboration with administrators and health professionals, including physicians and surgeons and nurses.

This bill would add **Section 2835.7** to the Business and Professions Code, relating to nurse practitioners.

ANALYSIS:
This bill would authorize the implementation of standardized procedures that would expand the duties of a nurse practitioner in the scope of his or her practice, as follows:

- Admit patients to the hospital, provided all admission policies are followed.
- Order durable medical equipment, subject to any limitations set forth in the standardize procedure.
- Certify a disability, after performance of a physical examination.
- Be designated, by the supervising physician, as the primary care provider of record for an individual enrolled in a health care service plan.
- Approve, sign, modify, or add to a plan of treatment or plan of care, for individuals receiving home health services under Medicare or Medi-Cal.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 294

Introduced by Senator Negrete McLeod

February 25, 2009

An act to add Section 2835.7 to the Business and Professions Code, relating to nurse practitioners.

LEGISLATIVE COUNSEL'S DIGEST

SB 294, as introduced, Negrete McLeod. Nurse practitioners.

Existing law, the Nursing Practice Act, provides for the certification and regulation of nurse practitioners and nurse-midwives by the Board of Registered Nursing and specifies requirements for qualification or certification as a nurse practitioner. Under the act, the practice of nursing is defined, in part, as providing direct and indirect patient care services, as specified, including the dispensing of drugs or devices under specified circumstances. The practice of nursing is also described as the implementation, based on observed abnormalities, of standardized procedures, defined as policies and protocols developed by specified facilities in collaboration with administrators and health professionals, including physicians and surgeons and nurses.

This bill would authorize the implementation of standardized procedures that would expand the duties of a nurse practitioner in the scope of his or her practice, as enumerated. The bill would make specified findings and declarations in that regard.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Nurse practitioners play a vital and cost-effective role in the delivery of health care services both independently and in collaboration with physicians and surgeons and other health care providers. Nurse practitioners are involved in almost every setting in which health care services are delivered, and, in collaboration with physicians and surgeons, directly provide a wide range of services and care.

(b) Under current law, nurse practitioners have the same statutory authority to provide services and care as do registered nurses. However, the law allows those registered nurses that meet the education requirements for certification as nurse practitioners to provide care and services beyond those specified in statute for registered nurses pursuant to standardized procedures and protocols adopted by each entity delivering health care services in which a nurse practitioner practices.

(c) The Legislature reiterates its intention to allow each health care setting in which a nurse practitioner practices to select and control the services nurse practitioners may perform and provide pursuant to Section 2725 of the Business and Professions Code, and that it is not the intention of the Legislature to grant nurse practitioners the authority to independently perform services beyond the level set forth in statute for registered nurses outside of the standardized procedures.

(d) Notwithstanding the foregoing, the Legislature finds that there is ambiguity in current law regarding what services and functions to be performed by nurse practitioners may be included in standardized procedures and protocols. This ambiguity results in disruptions and delays in care, disputes over billings, and duplication of services.

(e) Therefore, it is the intent of the Legislature to provide clarification that standardized procedures and protocols may include the specified services and functions set forth in this act so that health care entities may allow nurse practitioners to engage in those activities if the entities choose to do so, and that third-party payors understand that those services and functions can be performed by nurse practitioners if they are included in an entity's standardized procedures and protocols.

SEC. 2. Section 2835.7 is added to the Business and Professions Code, to read:

2835.7. (a) Notwithstanding any other provision of law, in addition to any other practices that meet the general criteria set forth in statute or regulation for inclusion in standardized procedures developed through collaboration among administrators and health professionals, including physicians and surgeons and nurses, standardized procedures may be implemented that authorize a nurse practitioner to do any of the following:

(1) Admit patients to a hospital, provided all admissions policies are followed by the nurse practitioner.

(2) Order durable medical equipment, subject to any limitations set forth in the standardized procedures. Notwithstanding that authority, nothing in this paragraph shall operate to limit the ability of a third-party payor to require prior approval.

(3) After performance of a physical examination by the nurse practitioner and collaboration with a physician and surgeon, certify disability pursuant to Section 2708 of the Unemployment Insurance Code.

(4) Permit a nurse practitioner to be designated by the nurse practitioner's supervising physician and surgeon as the primary care provider of record for an individual enrolled in a health care service plan. Notwithstanding that authority, nothing in this paragraph shall be construed to allow a nurse practitioner to operate independently of a standardized procedure.

(5) For individuals receiving home health services under Medicare or Medi-Cal, or personal care services, approve, sign, modify, or add to a plan of treatment or plan of care.

(b) Nothing in this section shall be construed to affect the validity of any standardized procedures in effect prior to the enactment of this section or those adopted subsequent to enactment.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Alquist	**BILL NUMBER:**	SB 303
SPONSOR:	California Advocates for Nursing Home Reform	**BILL STATUS:**	Senate
SUBJECT:	Nursing facility residents: informed consent	**DATE LAST AMENDED:**	Introduced 2/25/09

SUMMARY:
Existing law provides that patients of skilled nursing facilities and intermediate care facilities shall have prescribed rights. Existing law prescribes the persons to whom the rights of a resident of a skilled nursing or intermediate care facility devolve if the resident is judicially determined to be incompetent, or who is found by his or her physician to be medically incapable of understanding his or her rights or the nature and consequences of proposed treatment, or who exhibits a communication barrier. Under existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, an attending physician and surgeon that seeks to prescribe, order, or increase an order for an antipsychotic medication for a resident of a skilled nursing facility is required to obtain the informed consent of that resident.

This bill would amend, repeal and add a section to the Health and Safety Code, relating to nursing facility residents.

ANALYSIS:
This bill, among other provisions, would provide for every resident to receive all information that is material to an individual's decision concerning whether to accept or refuse any proposed treatment or procedure. This bill would make the physician responsible for disclosing the information to the resident and obtaining his or her informed consent that includes the disclosure of material information for administration of psychotherapeutic drugs, physical restraints, or the prolonged use of a device that may lead to the inability of the resident to retain use of a normal bodily function. It would also require a nurse working in a long-term nursing care facility to verify that a resident has given informed consent prior to the administration of a psychotherapeutic drug.

The Department of Public Health would be required to inspect for compliance of these proposed provisions, during inspections.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 303

Introduced by Senator Alquist

February 25, 2009

An act to amend Sections 1418.9 and 1599.1 of, to add Section 1599.15 to, and to repeal and add Section 1599.3 of, the Health and Safety Code, relating to nursing facility residents.

LEGISLATIVE COUNSEL'S DIGEST

SB 303, as introduced, Alquist. Nursing facility residents: informed consent.

Existing law provides that patients of skilled nursing facilities and intermediate care facilities shall have prescribed rights.

This bill would add to these rights the right of every resident to receive all information that is material to an individual's decision concerning whether to accept or refuse any proposed treatment or procedure. This bill would make the physician responsible for disclosing the material information to the resident and obtaining his or her informed consent.

This bill would require that informed consent, as defined, be obtained in accordance with the above requirements of the bill, with respect to a resident's decision to accept or reject the administration of a psychotherapeutic drug, a physical restraint, or the prolonged use of a device that may lead to the inability of a resident to regain use of a normal bodily function.

This bill would also require the State Department of Public Health to inspect for compliance with this requirement during prescribed inspections.

Existing law prescribes the persons to whom the rights of a resident of a skilled nursing or intermediate care facility devolve if the resident is judicially determined to be incompetent, or who is found by his or her physician to be medically incapable of understanding his or her

rights or the nature and consequences of proposed treatment, or who exhibits a communication barrier.

This bill would repeal these provisions, and, instead, would provide that a resident's representative, as defined, shall have the rights of a resident of a skilled nursing or intermediate facility who lacks the capacity to understand his or her rights or the nature and consequences of proposed treatment. The resident's incapacity would be determined by a court in accordance with state law or by the resident's physician unless the physician's determination is disputed by the resident or the resident's representative.

Under existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, an attending physician and surgeon that seeks to prescribe, order, or increase an order for an antipsychotic medication for a resident of a skilled nursing facility is required to obtain the informed consent of that resident. A violation of this provision is a misdemeanor.

This bill would apply the definition of "informed consent" contained in the bill to this provision. Because this bill would change the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Nursing Facility Resident Informed Consent Protection Act of 2009.

SEC. 2. The Legislature finds and declares all of the following:

(a) The protection of residents in California's nursing facilities is of paramount importance to the citizens of California.

(b) Almost 60 percent of California nursing facility residents are prescribed psychoactive drugs, many of which have dangerous side effects.

(c) Nearly 20 percent of California nursing facility residents are receiving powerful antipsychotic drugs that are not intended or approved for the resident's underlying medical condition.

(d) The United States Food and Drug Administration (FDA) has issued black box warnings for the antipsychotic drugs most commonly provided to nursing facility residents. The warnings state that these antipsychotic drugs greatly increase the risk of death for seniors with dementia.

(e) Nursing facility residents and resident's representatives rarely see the medication inserts that provide the black box warnings and often do not receive sufficient information about the side effects of medications.

(f) Nursing facility residents and resident's representatives must be well-informed in advance about the risks of proposed antipsychotic drugs and their consent must be obtained before medications are used.

(g) California's existing regulations on informed consent for nursing facility residents are rarely enforced.

(h) It is, therefore, the intent of the Legislature to enact legislation that would do all of the following:

(1) Codify provisions that establish a resident's right to informed consent concerning the use of psychotherapeutic drugs.

(2) Specify that residents and their representatives must be informed in writing about the content of black box warnings for proposed drugs and whether the drug's proposed use has been approved by the FDA.

(3) Require the State Department of Public Health to evaluate nursing facility compliance with these provisions during periodic state licensing inspections.

SEC. 3. Section 1418.9 of the Health and Safety Code is amended to read:

1418.9. (a) If the attending physician and surgeon of a resident in a skilled nursing facility prescribes, orders, or increases an order for an antipsychotic medication for the resident, the physician and surgeon shall do both of the following:

(1) Obtain the informed consent, *in accordance with the requirements of subdivision (j) of Section 1599.1 and Section 1599.15,* of the resident for purposes of prescribing, ordering, or increasing an order for the medication.

(2) Seek the consent of the resident to notify the resident's interested family member, as designated in the medical record. If the resident consents to the notice, the physician and surgeon shall make reasonable attempts, either personally or through a designee,

to notify the interested family member, as designated in the medical record, within 48 hours of the prescription, order, or increase of an order.

(b) Notification of an interested family member is not required under paragraph (2) of subdivision (a) if any of the following circumstances exist:

(1) There is no interested family member designated in the medical record.

(2) The resident has been diagnosed as terminally ill by his or her physician and surgeon and is receiving hospice services from a licensed, certified hospice agency in the facility.

(3) The resident has not consented to the notification.

(c) As used in this section, the following definitions shall apply:

(1) "Resident" means a patient of a skilled nursing facility who has the capacity to consent to make decisions concerning his or her health care, including medications.

(2) "Designee" means a person who has agreed with the physician and surgeon to provide the notice required by this section.

(3) "Antipsychotic medication" means a medication approved by the United States Food and Drug Administration for the treatment of psychosis.

(4) "Increase of an order" means an increase of the dosage of the medication above the dosage range stated in a prior consent from the resident.

(d) This section shall not be construed to require consent from an interested family member for an attending physician and surgeon of a resident to prescribe, order, or increase an order for antipsychotic medication.

SEC. 4. Section 1599.1 of the Health and Safety Code is amended to read:

1599.1. Written policies regarding the rights of patients shall be established and shall be made available to the patient, to any guardian, next of kin, sponsoring agency or representative payee, and to the public. Those policies and procedures shall ensure that each patient admitted to the facility has the following rights and is notified of the following facility obligations, in addition to those specified by regulation:

(a) The facility shall employ an adequate number of qualified personnel to carry out all of the functions of the facility.

(b) Each patient shall show evidence of good personal hygiene and be given care to prevent bedsores, and measures shall be used to prevent and reduce incontinence for each patient.

(c) The facility shall provide food of the quality and quantity to meet the patients' needs in accordance with physicians' orders.

(d) The facility shall provide an activity program staffed and equipped to meet the needs and interests of each patient and to encourage self-care and resumption of normal activities. Patients shall be encouraged to participate in activities suited to their individual needs.

(e) The facility shall be clean, sanitary, and in good repair at all times.

(f) A nurses' call system shall be maintained in operating order in all nursing units and provide visible and audible signal communication between nursing personnel and patients. Extension cords to each patient's bed shall be readily accessible to patients at all times.

(g) (1) If a facility has a significant beneficial interest in an ancillary health service provider or if a facility knows that an ancillary health service provider has a significant beneficial interest in the facility, as provided by subdivision (a) of Section 1323, or if the facility has a significant beneficial interest in another facility, as provided by subdivision (c) of Section 1323, the facility shall disclose that interest in writing to the patient, or his or her representative, and advise the patient, or his or her representative, that the patient may choose to have another ancillary health service provider, or facility, as the case may be, provide any supplies or services ordered by a member of the medical staff of the facility.

(2) A facility is not required to make any disclosures required by this subdivision to any patient, or his or her representative, if the patient is enrolled in an organization or entity that provides or arranges for the provision of health care services in exchange for a prepaid capitation payment or premium.

(h) (1) If a resident of a long-term health care facility has been hospitalized in an acute care hospital and asserts his or her rights to readmission pursuant to bed hold provisions, or readmission rights of either state or federal law, and the facility refuses to readmit him or her, the resident may appeal the facility's refusal.

(2) The refusal of the facility as described in this subdivision shall be treated as if it were an involuntary transfer under federal

law, and the rights and procedures that apply to appeals of transfers and discharges of nursing facility residents shall apply to the resident's appeal under this subdivision.

(3) If the resident appeals pursuant to this subdivision, and the resident is eligible under the Medi-Cal program, the resident shall remain in the hospital and the hospital may be reimbursed at the administrative day rate, pending the final determination of the hearing officer, unless the resident agrees to placement in another facility.

(4) If the resident appeals pursuant to this subdivision, and the resident is not eligible under the Medi-Cal program, the resident shall remain in the hospital if other payment is available, pending the final determination of the hearing officer, unless the resident agrees to placement in another facility.

(5) If the resident is not eligible for participation in the Medi-Cal program and has no other source of payment, the hearing and final determination shall be made within 48 hours.

(i) Effective July 1, 2007, Sections 483.10, 483.12, 483.13, and 483.15 of Title 42 of the Code of Federal Regulations in effect on July 1, 2006, shall apply to each skilled nursing facility and intermediate care facility, regardless of a resident's payment source or the Medi-Cal or Medicare certification status of the skilled nursing facility or intermediate care facility in which the resident resides, except that a noncertified facility is not obligated to provide notice of Medicaid or Medicare benefits, covered services, or eligibility procedures.

(j) The resident shall have the right to receive all information that is material to an individual's decision concerning whether to accept or refuse any proposed treatment or procedure. The disclosure of material information for administration of psychotherapeutic drugs or physical restraints or the prolonged use of a device that may lead to the inability of the resident to regain use of a normal bodily function shall include the disclosures required by Section 1599.15.

SEC. 5. Section 1599.15 is added to the Health and Safety Code, to read:

1599.15. (a) As used in this section, the following definitions shall apply:

(1) "Attending physician" means the physician chosen by the resident or the resident's representative to be responsible for the medical treatment of the resident in the facility.

(2) "Informed consent" means the voluntary agreement of a patient or a resident's representative to accept a treatment or procedure after receiving information in accordance with subdivisions (b) to (f), inclusive, and subdivision (j) of Section 1599.1.

(3) "Psychotherapeutic drug" means a medication to control behavior or to treat thought disorder processes.

(4) "Physical restraint" means any physical or mechanical device or material attached or adjacent to a resident's body that the resident cannot remove easily, which has the effect of restricting the resident's freedom of movement. Physical restraint does not include the use of the least restrictive immobilization reasonably necessary to administer necessary treatment of a therapeutic, noncontinuous nature, such as a single injection of antibiotics, and where the immobilization is removed upon the administration of that treatment. This exception shall not include immobilizations for continuously administered treatments such as intravenous therapy.

(b) It is the responsibility of the attending physician to determine what information a reasonable person in the resident's condition and circumstances would consider material to a decision to accept or refuse a proposed treatment or procedure. Information that is commonly appreciated need not be disclosed. The disclosure of the material information and obtaining informed consent shall be the responsibility of the physician.

(c) The information material to a decision concerning the administration of a psychotherapeutic drug, physical restraint, or the prolonged use of a device that may lead to the inability of the resident to regain use of a normal bodily function, shall include, but not be limited to, the following:

(1) The reason for the treatment and the nature and seriousness of the resident's illness.

(2) The nature of the procedure to be used in the proposed treatment, including the procedure's probable frequency and duration.

(3) The probable degree and duration, whether temporary or permanent, of improvement or remission expected with or without the proposed treatment.

(4) The nature, degree, duration, and probability of the side effects and significant risks that are commonly known by the health professions. Information on risks associated with psychotherapeutic drugs shall include, but not be limited to, whether a proposed medication is being prescribed for a purpose or medical condition other than the purpose or medical condition for which the United States Food and Drug Administration (FDA) has specifically approved that medication. Information on risks of a proposed medication shall also include, in writing, any current boxed warning labels and accompanying detailed information regarding contraindications, warnings, and precautions required by the FDA.

(5) The reasonable alternative treatments and risks, and why the health professional is recommending a particular treatment.

(6) That the resident has the right to accept or refuse the proposed treatment, and, if he or she consents, the right to revoke his or her consent for any reason at any time.

(d) Before initiating the administration of psychotherapeutic drugs, physical restraints, or the prolonged use of a device that may lead to the inability of the resident to regain use of a normal bodily function, facility staff shall verify with the resident or the resident's representative that the resident has been fully informed about the proposed treatment or procedure and has consented. This verification shall be specifically documented in the resident's health record. The facility shall also ensure that all decisions concerning the withdrawal or withholding of life sustaining treatment are documented in the resident's health record.

(e) Residents' rights policies and procedures established under this section concerning consent, informed consent, and refusal of treatments or procedures shall specify how the facility will verify that the resident provided informed consent or refused treatment or procedure pertaining to the administration of psychotherapeutic drugs, physical restraints, or the prolonged use of a device that may lead to the inability of the resident to regain the use of a normal bodily function.

(f) This section shall not be construed to require obtaining informed consent each time a treatment or procedure is administered unless material circumstances or risks change.

(g) The State Department of Public Health shall inspect nursing facilities for compliance with this section during the periodic inspections required under Section 1422 and, as appropriate, during complaint investigations required under Section 1420. This inspection requirement shall not limit the department's authority in other circumstances to cite for violations of this section or to inspect for compliance with this section.

(h) A violation of the informed consent rights provided for in this section may constitute a class "B," "A," or "AA" violation pursuant to the standards established in Section 1424.

SEC. 6. Section 1599.3 of the Health and Safety Code is repealed.

~~1599.3. Any rights under this chapter of a patient judicially determined to be incompetent, or who is found by his physician to be medically incapable of understanding such information, or who exhibits a communication barrier, shall devolve to such patient's guardian, conservator, next of kin, sponsoring agency, or representative payer, except when the facility itself is the representative payer.~~

SEC. 7. Section 1599.3 is added to the Health and Safety Code, to read:

1599.3. (a) If a resident lacks the capacity to understand his or her rights or the nature and consequences of a proposed treatment, the resident's representative shall have the rights specified in this chapter to the extent the right may devolve to another, unless the representative's authority is otherwise limited. The resident's incapacity shall be determined by a court in accordance with state law or by the resident's physician unless the physician's determination is disputed by the resident or resident's representative.

(b) As used in this chapter, the term "resident's representative" means a conservator, as authorized by Parts 3 and 4 (commencing with Section 1800) of Division 4 of the Probate Code, a person designated as attorney in fact in the resident's valid durable power of attorney for health care, the resident's next of kin, other appropriate legally recognized health care decisionmaker designated consistent with statutory and case law, a person appointed by a court authorizing treatment pursuant to Part 7 (commencing with Section 3200) of Division 4 of the Probate

Code, or, if the resident is a minor, a person lawfully authorized to represent the minor.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Yee	**BILL NUMBER:**	SB 360
SPONSOR:	California Nurses Association	**BILL STATUS:**	Senate
SUBJECT:	Health Facilities: direct care nurses	**DATE LAST AMENDED:**	Introduced 2/25/09

SUMMARY:
Under existing law, the Department of Consumer Affairs, Board of Registered Nursing regulates the licensing of registered nurses. Existing law requires the State Department of Public Health to license and regulate health facilities, including hospitals, and establish minimum hospital nurse-to-patient ratios by licensed nurse classification and by hospital unit. Under existing law, specified hospitals are required to adopt written policies and procedures for training and orientation of nursing staff. These provisions prohibit a registered nurse from being assigned to a nursing unit or clinical area until that nurse has received the specified orientation and demonstrated sufficient competency. A violation of these health facility provisions is a crime.

This bill would amend sections of the Health and Safety Code, relating to direct care nurses.

ANALYSIS:
This bill would require each new direct care registered nursing hire to receive and complete an orientation to the hospital and patient care unit in which he or she will be working. It would preclude a nurse who has not completed this orientation from being assigned direct patient care, and would require observation of the nurse during the orientation by a direct care registered nurse. This bill would specify that, until the nurse completes orientation, he or she would not be counted as staff in computing the nurse-to-patient ratio. This bill would exempt a state inpatient mental health hospital, a state developmental center, or a state veterans' home from these provisions.

During the 2007-2008 Legislative Session, the board followed SB 1721(Yee) that had similar language and provisions and was in support of the bill. It did not make it through the Legislature, because it was held in the Committee.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 360

Introduced by Senator Yee

February 25, 2009

An act to amend Section 1276.4 of, and to add Section 1276.45 to, the Health and Safety Code, relating to direct care nurses.

LEGISLATIVE COUNSEL'S DIGEST

SB 360, as introduced, Yee. Health facilities: direct care nurses.

Under existing law, the Department of Consumer Affairs, Board of Registered Nursing regulates the licensing of registered nurses. Existing law requires the State Department of Public Health to license and regulate health facilities, including hospitals, and establish minimum hospital nurse-to-patient ratios by licensed nurse classification and by hospital unit. Under existing law, specified hospitals are required to adopt written policies and procedures for training and orientation of nursing staff. These provisions prohibit a registered nurse from being assigned to a nursing unit or clinical area until that nurse has received the specified orientation and demonstrated sufficient competency. A violation of these health facility provisions is a crime.

This bill would require each new direct care registered nursing hire to receive and complete an orientation to the hospital and patient care unit in which he or she will be working. It would preclude a nurse who has not completed this orientation from being assigned direct patient care, and would require observation of the nurse during the orientation by a direct care registered nurse. This bill would specify that, until the nurse completes orientation, he or she would not be counted as staff in computing the nurse-to-patient ratio. This bill would exempt a state inpatient mental health hospital, a state developmental center, or a state veterans' home from these provisions.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1276.4 of the Health and Safety Code is amended to read:

1276.4. (a) By January 1, 2002, the State Department of *Public* Health ~~Services~~ shall adopt regulations that establish minimum, specific, and numerical licensed nurse-to-patient ratios by licensed nurse classification and by hospital unit for all health facilities licensed pursuant to subdivision (a), (b), or (f) of Section 1250. The department shall adopt these regulations in accordance with the department's licensing and certification regulations as stated in Sections 70053.2, 70215, and 70217 of Title 22 of the California Code of Regulations, and the professional and vocational regulations in Section 1443.5 of Title 16 of the California Code of Regulations. The department shall review these regulations five years after adoption and shall report to the Legislature regarding any proposed changes. Flexibility shall be considered by the department for rural general acute care hospitals in response to their special needs. As used in this subdivision, "hospital unit" means a critical care unit, burn unit, labor and delivery room, postanesthesia service area, emergency department, operating room, pediatric unit, step-down/intermediate care unit, specialty care unit, telemetry unit, general medical care unit, subacute care unit, and transitional inpatient care unit. The regulation addressing the emergency department shall distinguish between regularly scheduled core staff licensed nurses and additional licensed nurses required to care for critical care patients in the emergency department.

(b) These ratios shall constitute the minimum number of registered and licensed nurses that shall be allocated. Additional

staff shall be assigned in accordance with a documented patient classification system for determining nursing care requirements, including the severity of the illness, the need for specialized equipment and technology, the complexity of clinical judgment needed to design, implement, and evaluate the patient care plan and the ability for self-care, and the licensure of the personnel required for care.

(c) "Critical care unit" as used in this section means a unit that is established to safeguard and protect patients whose severity of medical conditions requires continuous monitoring, and complex intervention by licensed nurses.

~~(d) All health facilities licensed under subdivision (a), (b), or (f) of Section 1250 shall adopt written policies and procedures for training and orientation of nursing staff.~~

~~(e) No registered nurse shall be assigned to a nursing unit or clinical area unless that nurse has first received orientation in that clinical area sufficient to provide competent care to patients in that area, and has demonstrated current competence in providing care in that area.~~

~~(f) The written policies and procedures for orientation of nursing staff shall require that all temporary personnel shall receive orientation and be subject to competency validation consistent with Sections 70016.1 and 70214 of Title 22 of the California Code of Regulations.~~

~~(g)~~

(d) Requests for waivers to this section that do not jeopardize the health, safety, and well-being of patients affected and that are needed for increased operational efficiency may be granted by the state department to rural general acute care hospitals meeting the criteria set forth in Section 70059.1 of Title 22 of the California Code of Regulations.

~~(h)~~

(e) In case of conflict between this section and any provision or regulation defining the scope of nursing practice, the scope of practice provisions shall control.

~~(i)~~

(f) The regulations adopted by the department shall augment and not replace existing nurse-to-patient ratios that exist in regulation or law for the intensive care units, the neonatal intensive care units, or the operating room.

~~(j)~~

(g) The regulations adopted by the department shall not replace existing licensed staff-to-patient ratios for hospitals operated by the State Department of Mental Health.

~~(k)~~

(h) The regulations adopted by the department for health facilities licensed under subdivision (b) of Section 1250 that are not operated by the State Department of Mental Health shall take into account the special needs of the patients served in the psychiatric units.

~~(l)~~

(i) The department may take into consideration the unique nature of the University of California teaching hospitals as educational institutions when establishing licensed nurse-to-patient ratios. The department shall coordinate with the Board of Registered Nursing to ensure that staffing ratios are consistent with the Board of Registered Nursing approved nursing education requirements. This includes nursing clinical experience incidental to a work-study program rendered in a University of California clinical facility approved by the Board of Registered Nursing provided there will be sufficient direct care registered nurse preceptors available to ensure safe patient care.

SEC. 2. Section 1276.45 is added to the Health and Safety Code, to read:

1276.45. (a) Each general acute care hospital, acute psychiatric hospital, and special hospital, as defined in subdivisions (a), (b), and (f) of Section 1250, shall ensure that all direct care registered nurses, including new hires, casual, per diem, temporary agency, registry, and traveler staff, shall receive and complete orientation to the hospital and patient care unit or clinical care area in which they will be working. All health facilities subject to this section shall adopt written policies and procedures for the training and orientation of nursing staff.

(b) (1) Every direct care registered nurse shall have current demonstrated and validated competency required for the specific individual needs of the patient population admitted to the unit or clinical area before being assigned to patient care for that unit or clinical area. In accordance with paragraph (2), current competency may only be demonstrated and validated by the direct observation of the orientee by another direct care registered nurse who has

previously demonstrated current competency in the relevant patient population. Self-assessments are prohibited.

(2) The observing direct care registered nurse shall be required to directly observe and assess the orientee within the relevant clinical area and with the relevant patient population for a minimum of five standard nursing shifts in order to determine if the orientee displays the required knowledge, performance, and skills of patient assessment, patient care planning, education, intervention, patient evaluation, and patient advocacy to satisfactorily fulfill the duties required by the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code) and the Standards of Competent Performance.

(c) The written policies and procedures for the orientation of nursing staff shall require that all temporary personnel shall receive orientation and be subject to validation of demonstrated competency consistent with the requirements of this section and with Sections 70016.1 and 70214 of Title 22 of the California Code of Regulations.

(d) An orientee shall not be included in the calculation of the licensed nurse-to-patient ratio required by Section 1276.4.

(e) As used in this section, "orientee" means a direct care registered nurse who has not received and completed orientation to the hospital and patient care unit or clinical area and whose current competency has not been demonstrated and validated.

(f) This section shall not apply to a state inpatient mental health hospital, as defined in Section 4100 of the Welfare and Institutions Code, a state developmental center, as defined in Section 4400 of the Welfare and Institutions Code, or a state veterans' home, as defined in Chapter 1 (commencing with Section 1010) of Division 5 of the Military and Veterans Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Maldonado	**BILL NUMBER:**	SB 368
SPONSOR:	Maldonado	**BILL STATUS:**	Senate
SUBJECT:	Confidential medical information: unlawful disclosure	**DATE LAST AMENDED:**	Introduced 2/25/09

SUMMARY:
Existing law, the Confidentiality of Medical Information Act, generally prohibits the unlawful disclosure of confidential patient information, sets forth criminal and civil penalties for prescribed violations, and authorizes prescribed persons to bring enforcement actions.

Existing law establishes provisions for the licensing and certification of clinics, health facilities, home health agencies, and hospices under the jurisdiction of the State Department of Public Health, prohibits the unlawful release of medical records by those entities, and authorizes the department to assess administrative penalties for violations.

Existing law requires every provider of health care to reasonably safeguard confidential medical information from unauthorized or unlawful access, use, or disclosure. Existing law establishes within the California Health and Human Services Agency the Office of Health Information Integrity to assess and impose administrative fines for a violation of these provisions. Existing law authorizes the director to send a recommendation for further investigation of, or discipline for, a potential violation to the licensee's relevant licensing authority.

This bill would amend a section of the Civil Code and sections of the Health and Safety Code.

ANALYSIS:
This bill would authorize a person and/or the director of the Office of Health Information Integrity, to send a recommendation for further investigation of, or discipline for, a potential violation to the licensee's relevant licensing authority, if the director finds that the violation was due to unlawful conduct of a licensed health care professional. The recommendation would have to include all documentary evidence collected by the director in evaluating whether or not to make the recommendation. The licensing authority of the licensed health care professional would be required to review all evidence submitted by the director and could take action for further investigation or discipline of the licensee.

This bill would also authorize the office to assess those administrative penalties for unlawful disclosure of confidential medical records, if the Director of Public Health delegates that authority to the office.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 368

Introduced by Senator Maldonado

February 25, 2009

An act to amend Section 56.36 of the Civil Code, and to amend Sections 1280.15 and 130202 of the Health and Safety Code, relating to confidential medical information.

LEGISLATIVE COUNSEL'S DIGEST

SB 368, as introduced, Maldonado. Confidential medical information: unlawful disclosure.

(1) Existing law, the Confidentiality of Medical Information Act, generally prohibits the unlawful disclosure of confidential patient information, sets forth criminal and civil penalties for prescribed violations, and authorizes prescribed persons to bring enforcement actions.

This bill would authorize a person who brings an action against a licensed health care provider pursuant to those provisions to send a recommendation for further investigation of, or discipline for, a potential violation of those provisions to the licensee's relevant licensing authority.

(2) Existing law establishes provisions for the licensing and certification of clinics, health facilities, home health agencies, and hospices under the jurisdiction of the State Department of Public Health, prohibits the unlawful release of medical records by those entities, and authorizes the department to assess administrative penalties for violations.

This bill would, if the director finds that the violation was due to unlawful conduct of a licensed health care professional, authorize the director to send a recommendation for further investigation of, or

discipline for, a potential violation to the licensed health care professional's relevant licensing authority

(3) Existing law requires every provider of health care to reasonably safeguard confidential medical information from unauthorized or unlawful access, use, or disclosure. Existing law establishes within the California Health and Human Services Agency the Office of Health Information Integrity to assess and impose administrative fines for a violation of these provisions. Existing law authorizes the director to send a recommendation for further investigation of, or discipline for, a potential violation to the licensee's relevant licensing authority.

The law does not permit the office to assess prescribed administrative penalties that are authorized to be assessed against licensed health care providers by the State Department of Public Health.

This bill would authorize the office to assess those administrative penalties for unlawful disclosure of confidential medical records if the Director of Public Health has delegated that authority to the office.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 56.36 of the Civil Code is amended to read:

56.36. (a) Any violation of the provisions of this part that results in economic loss or personal injury to a patient is punishable as a misdemeanor.

(b) In addition to any other remedies available at law, any individual may bring an action against any person or entity who has negligently released confidential information or records concerning him or her in violation of this part, for either or both of the following:

(1) Nominal damages of one thousand dollars ($1,000). In order to recover under this paragraph, it shall not be necessary that the plaintiff suffered or was threatened with actual damages.

(2) The amount of actual damages, if any, sustained by the patient.

(c) (1) In addition, any person or entity that negligently discloses medical information in violation of the provisions of this part shall also be liable, irrespective of the amount of damages suffered by the patient as a result of that violation, for an

administrative fine or civil penalty not to exceed two thousand five hundred dollars ($2,500) per violation.

(2) (A) Any person or entity, other than a licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part shall be liable for an administrative fine or civil penalty not to exceed twenty-five thousand dollars ($25,000) per violation.

(B) Any licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part shall be liable on a first violation, for an administrative fine or civil penalty not to exceed two thousand five hundred dollars ($2,500) per violation, or on a second violation for an administrative fine or civil penalty not to exceed ten thousand dollars ($10,000) per violation, or on a third and subsequent violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars ($25,000) per violation. Nothing in this subdivision shall be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for any violation of this part.

(3) (A) Any person or entity, other than a licensed health care professional, who knowingly or willfully obtains or uses medical information in violation of this part for the purpose of financial gain shall be liable for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation.

(B) Any licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part for financial gain shall be liable on a first violation, for an administrative fine or civil penalty not to exceed five thousand dollars ($5,000) per violation, or on a second violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars ($25,000) per violation, or on a third and subsequent violation for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation. Nothing in this subdivision shall be construed to limit the liability of a health care service plan, a contractor, or a provider of health care

that is not a licensed health care professional for any violation of this part.

(4) Nothing in this subdivision shall be construed as authorizing an administrative fine or civil penalty under both paragraphs (2) and (3) for the same violation.

(5) Any person or entity who is not permitted to receive medical information pursuant to this part and who knowingly and willfully obtains, discloses, or uses medical information without written authorization from the patient shall be liable for a civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation.

(d) In assessing the amount of an administrative fine or civil penalty pursuant to subdivision (c), the Office of Health Information Integrity, licensing agency, or certifying board or court shall consider any one or more of the relevant circumstances presented by any of the parties to the case including, but not limited to, the following:

(1) Whether the defendant has made a reasonable, good faith attempt to comply with this part.

(2) The nature and seriousness of the misconduct.

(3) The harm to the patient, enrollee, or subscriber.

(4) The number of violations.

(5) The persistence of the misconduct.

(6) The length of time over which the misconduct occurred.

(7) The willfulness of the defendant's misconduct.

(8) The defendant's assets, liabilities, and net worth.

(e) (1) The civil penalty pursuant to subdivision (c) shall be assessed and recovered in a civil action brought in the name of the people of the State of California in any court of competent jurisdiction by any of the following:

(A) The Attorney General.

(B) Any district attorney.

(C) Any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance.

(D) Any city attorney of a city.

(E) Any city attorney of a city and county having a population in excess of 750,000, with the consent of the district attorney.

(F) A city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county.

(G) The Director of the Office of Health Information Integrity may recommend that any person described in subparagraphs (A) to (F), inclusive, bring a civil action under this section.

(2) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in paragraph (3), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered.

(3) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered.

(4) Nothing in this section shall be construed as authorizing both an administrative fine and civil penalty for the same violation.

(5) Imposition of a fine or penalty provided for in this section shall not preclude imposition of any other sanctions or remedies authorized by law.

(6) Administrative fines or penalties issued pursuant to Section 1280.15 of the Health and Safety Code shall offset any other administrative fine or civil penalty imposed under this section for the same violation.

(f) For purposes of this section, "knowing" and "willful" shall have the same meanings as in Section 7 of the Penal Code.

(g) No person who discloses protected medical information in accordance with the provisions of this part shall be subject to the penalty provisions of this part.

(h) Paragraph (6) of subdivision (e) shall only become operative if Senate Bill 541 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009.

(i) Notwithstanding any other provision of law, a person who brings an action pursuant to this section against a licensed health care provider may send a recommendation for further investigation

of, or discipline for, a potential violation of this part to the licensee's relevant licensing authority. The recommendation shall include all documentary evidence collected by the person in evaluating whether or not to make that recommendation. The recommendation and accompanying evidence shall be deemed in the nature of an investigative communication and be protected by Section 6254 of the Government Code. The licensing authority of the licensed health care provider shall review all evidence submitted and may take action for further investigation or discipline of the licensee.

SEC. 2. Section 1280.15 of the Health and Safety Code is amended to read:

1280.15. (a) A clinic, health facility, home health agency, or hospice licensed pursuant to Section 1204, 1250, 1725, or 1745 shall prevent unlawful or unauthorized access to, and use or disclosure of, patients' medical information, as defined in subdivision (g) of Section 56.05 of the Civil Code and consistent with Section 130203. The department, after investigation, may assess an administrative penalty for a violation of this section of up to twenty-five thousand dollars ($25,000) per patient whose medical information was unlawfully or without authorization accessed, used, or disclosed, and up to seventeen thousand five hundred dollars ($17,500) per subsequent occurrence of unlawful or unauthorized access, use, or disclosure of that patients' medical information. For purposes of the investigation, the department shall consider the clinic's, health facility's, agency's, or hospice's history of compliance with this section and other related state and federal statutes and regulations, the extent to which the facility detected violations and took preventative action to immediately correct and prevent past violations from recurring, and factors outside its control that restricted the facility's ability to comply with this section. The department shall have full discretion to consider all factors when determining the amount of an administrative penalty pursuant to this section.

(b) (1) A clinic, health facility, agency, or hospice to which subdivision (a) applies shall report any unlawful or unauthorized access to, or use or disclosure of, a patient's medical information to the department no later than five days after the unlawful or unauthorized access, use, or disclosure has been detected by the clinic, health facility, agency, or hospice.

(2) A clinic, health facility, agency, or hospice shall also report any unlawful or unauthorized access to, or use or disclosure of, a patient's medical information to the affected patient or the patient's representative at the last known address, no later than five days after the unlawful or unauthorized access, use, or disclosure has been detected by the clinic, health facility, agency, or hospice.

(c) If a clinic, health facility, agency, or hospice to which subdivision (a) applies violates subdivision (b), the department may assess the licensee a penalty in the amount of one hundred dollars ($100) for each day that the unlawful or unauthorized access, use, or disclosure is not reported, following the initial five-day period specified in subdivision (b). However, the total combined penalty assessed by the department under subdivision (a) and this subdivision shall not exceed two hundred fifty thousand dollars ($250,000) per reported event.

(d) In enforcing subdivisions (a) and (c), the department shall take into consideration the special circumstances of small and rural hospitals, as defined in Section 124840, and primary care clinics, as defined in subdivision (a) of Section 1204, in order to protect access to quality care in those hospitals and clinics. When assessing a penalty on a skilled nursing facility or other facility subject to Section 1423, 1424, 1424.1, or 1424.5, the department shall issue only the higher of either a penalty for the violation of this section or a penalty for violation of Section 1423, 1424, 1424.1, or 1424.5, not both.

(e) All penalties collected by the department pursuant to this section, Sections 1280.1, 1280.3, and 1280.4, shall be deposited into the Internal Departmental Quality Improvement Account, which is hereby created within the Special Deposit Fund under Section 16370 of the Government Code. Upon appropriation by the Legislature, moneys in the account shall be expended for internal quality improvement activities in the Licensing and Certification Program.

(f) If the licensee disputes a determination by the department regarding a failure to prevent or failure to timely report unlawful or unauthorized access to, or use or disclosure of, patients' medical information, or the imposition of a penalty under this section, the licensee may, within 10 days of receipt of the penalty assessment, request a hearing pursuant to Section 131071. Penalties shall be

paid when appeals have been exhausted and the penalty has been upheld.

(g) In lieu of disputing the determination of the department regarding a failure to prevent or failure to timely report unlawful or unauthorized access to, or use or disclosure of, patients' medical information, transmit to the department 75 percent of the total amount of the administrative penalty, for each violation, within 30 business days of receipt of the administrative penalty.

(h) Notwithstanding any other provision of law, the department may refer violations of this section to the office of Health Information Integrity for enforcement pursuant to Section 130303, except that if Assembly Bill 211 of the 2007–08 Regular Session is not enacted, the department may refer violations to the Office of HIPAA Implementation.

(i) For purposes of this section, the following definitions shall apply:

(1) "Reported event" means all breaches included in any single report that is made pursuant to subdivision (b), regardless of the number of breach events contained in the report.

(2) "Unauthorized" means the inappropriate access, review, or viewing of patient medical information without a direct need for medical diagnosis, treatment, or other lawful use as permitted by the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) or any other statute or regulation governing the lawful access, use, or disclosure of medical information.

(j) Notwithstanding any other provision of law, if the director finds that a violation of this section was due to the unlawful action of a licensed health care professional, the director may send a recommendation for further investigation of, or discipline for, a potential violation of this section to the licensee's relevant licensing authority. The recommendation shall include all documentary evidence collected by the director in evaluating whether or not to make that recommendation. The recommendation and accompanying evidence shall be deemed in the nature of an investigative communication and be protected by Section 6254 of the Government Code. The licensing authority of the licensed health care professional shall review all evidence submitted by the director and may take action for further investigation or discipline of the licensee.

SEC. 3. Section 130202 of the Health and Safety Code is amended to read:

130202. (a) (1) Upon receipt of a referral from the State Department of Public Health, the office may assess an administrative fine against any person or any provider of health care, whether licensed or unlicensed, for any violation of this division in an amount as provided in Section 56.36 of the Civil Code. Proceedings against any person or entity for a violation of this section shall be held in accordance with administrative adjudication provisions of Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Paragraph (1) shall not apply to a clinic, health facility, agency, or hospice licensed pursuant to Section 1204, 1250, 1725, or 1745 if Senate Bill 541 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009.

(3) Nothing in paragraph (1) shall be construed as authorizing the office to assess the administrative penalties described in Section 1280.15 of the Health and Safety Code, *unless the Director of Public Health has delegated that authority to the office*.

(b) The office shall adopt, amend, or repeal, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such rules and regulations as may be reasonable and proper to carry out the purposes and intent of this division, and to enable the authority to exercise the powers and perform the duties conferred upon it by this division not inconsistent with any other provision of law.

(c) Paragraph (3) of subdivision (a) shall only become operative if Senate Bill 541 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Negrete McLeod	**BILL NUMBER:**	SB 638
SPONSOR:	Negrete McLeod	**BILL STATUS:**	Senate
SUBJECT:	Regulatory boards: operations	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law creates various regulatory boards, as defined, within the Department of Consumer Affairs, with board members serving specified terms of office. Existing law generally makes the regulatory boards inoperative and repealed on specified dates, unless those dates are deleted or extended by subsequent legislation, and subjects these boards that are scheduled to become inoperative and repealed as well as other boards in state government, as specified, to review by the Joint Committee on Boards, Commissions, and Consumer Protection. Under existing law, that committee, following a specified procedure, recommends whether the board should be continued or its functions modified. Existing law requires the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California to submit certain analyses and reports to the committee on specified dates and requires the committee to review those boards and hold hearings as specified, and to make certain evaluations and findings.

This bill would amend sections of the Business and Professions Code, 5relating to regulatory boards

ANALYSIS:
This bill would abolish the Joint Committee on Boards, Commissions, and Consumer Protection and would authorize the appropriate policy committees of the Legislature to carry out its duties. The bill would terminate the terms of office of each board member or bureau chief within the department on unspecified dates and would authorize successor board members and bureau chiefs to be appointed, as specified. The bill would authorize the appropriate policy committees of the Legislature to review the boards, bureaus, or entities that are scheduled to have their board membership or bureau chief so terminated or reviewed, and would authorize the appropriate policy committees of the Legislature to investigate their operations and to hold public hearings.

The policy committees that would, jointly, review the Board of Registered Nursing would be the Senate Business, Professions & Economic Development Committee and the Assembly Business and professions Committee.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 638

Introduced by Senator Negrete McLeod

February 27, 2009

An act to amend Sections 22, 473.1, 473.15, 473.2, 473.3, 473.4, 473.6, and 9882 of, to add Sections 473.12 and 473.7 to, to repeal Sections 473.16 and 473.5 of, and to repeal and add Sections 101.1 and 473 of, the Business and Professions Code, relating to regulatory boards.

LEGISLATIVE COUNSEL'S DIGEST

SB 638, as introduced, Negrete McLeod. Regulatory boards: operations.

Existing law creates various regulatory boards, as defined, within the Department of Consumer Affairs, with board members serving specified terms of office. Existing law generally makes the regulatory boards inoperative and repealed on specified dates, unless those dates are deleted or extended by subsequent legislation, and subjects these boards that are scheduled to become inoperative and repealed as well as other boards in state government, as specified, to review by the Joint Committee on Boards, Commissions, and Consumer Protection. Under existing law, that committee, following a specified procedure, recommends whether the board should be continued or its functions modified. Existing law requires the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California to submit certain analyses and reports to the committee on specified dates and requires the committee to review those boards and hold hearings as specified, and to make certain evaluations and findings.

This bill would abolish the Joint Committee on Boards, Commissions, and Consumer Protection and would authorize the appropriate policy committees of the Legislature to carry out its duties. The bill would terminate the terms of office of each board member or bureau chief

within the department on unspecified dates and would authorize successor board members and bureau chiefs to be appointed, as specified. The bill would also subject interior design organizations, the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and the Tax Education Council to review on unspecified dates. The bill would authorize the appropriate policy committees of the Legislature to review the boards, bureaus, or entities that are scheduled to have their board membership or bureau chief so terminated or reviewed, as specified, and would authorize the appropriate policy committees of the Legislature to investigate their operations and to hold specified public hearings. The bill would require a board, bureau, or entity, if their annual report contains certain information, to post it on its Internet Web site. The bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 22 of the Business and Professions Code is amended to read:

22. ~~(a)~~ "Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

~~(b) Whenever the regulatory program of a board that is subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2 (commencing with Section 473), is taken over by the department, that program shall be designated as a "bureau."~~

SEC. 2. Section 101.1 of the Business and Professions Code is repealed.

~~101.1. (a) It is the intent of the Legislature that all existing and proposed consumer-related boards or categories of licensed professionals be subject to a review every four years to evaluate and determine whether each board has demonstrated a public need for the continued existence of that board in accordance with enumerated factors and standards as set forth in Division 1.2 (commencing with Section 473).~~

~~(b) (1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.~~

~~(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department.~~

~~(3) Notwithstanding Section 107, any provision of law authorizing the appointment of an executive officer by a board subject to the review described in Division 1.2 (commencing with Section 473), or prescribing his or her duties, shall not be implemented and shall have no force or effect while the applicable board is inoperative or repealed. Any reference to the executive officer of an inoperative or repealed board shall be deemed to be a reference to the director or his or her designee.~~

~~(c) It is the intent of the Legislature that subsequent legislation to extend or repeal the inoperative date for any board shall be a separate bill for that purpose.~~

SEC. 3. Section 101.1 is added to the Business and Professions Code, to read:

101.1. (a) Notwithstanding any other provision of law, if the terms of office of the members of a board are terminated in accordance with the act that added this section or by subsequent acts, successor members shall be appointed that shall succeed to, and be vested with, all the duties, powers, purposes, responsibilities, and jurisdiction not otherwise repealed or made inoperative of the members that they are succeeding. The successor members shall be appointed by the same appointing authorities, for the remainder of the previous members' terms, and shall be subject to the same membership requirements as the members they are succeeding.

(b) Notwithstanding any other provision of law, if the term of office for a bureau chief is terminated in accordance with the act that added this section or by subsequent acts, a successor bureau chief shall be appointed who shall succeed to, and be vested with,

all the duties, powers, purposes, responsibilities, and jurisdiction not otherwise repealed or made inoperative of the bureau chief that he or she is succeeding. The successor bureau chief shall be appointed by the same appointing authorities, for the remainder of the previous bureau chief's term, and shall be subject to the same requirements as the bureau chief he or she is succeeding.

SEC. 4. Section 473 of the Business and Professions Code is repealed.

~~473. (a) There is hereby established the Joint Committee on Boards, Commissions, and Consumer Protection.~~

~~(b) The Joint Committee on Boards, Commissions, and Consumer Protection shall consist of three members appointed by the Senate Committee on Rules and three members appointed by the Speaker of the Assembly. No more than two of the three members appointed from either the Senate or the Assembly shall be from the same party. The Joint Rules Committee shall appoint the chairperson of the committee.~~

~~(c) The Joint Committee on Boards, Commissions, and Consumer Protection shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.~~

~~(d) The Speaker of the Assembly and the Senate Committee on Rules may designate staff for the Joint Committee on Boards, Commissions, and Consumer Protection.~~

~~(e) The Joint Committee on Boards, Commissions, and Consumer Protection is authorized to act until January 1, 2012, at which time the committee's existence shall terminate.~~

SEC. 5. Section 473 is added to the Business and Professions Code, to read:

473. Whenever the provisions of this code refer to the Joint Committee on Boards, Commissions and Consumer Protection, the reference shall be construed to be a reference to the appropriate policy committees of the Legislature.

SEC. 6. Section 473.1 of the Business and Professions Code is amended to read:

473.1. This chapter shall apply to all of the following:

(a) Every board, as defined in Section 22, that is scheduled to ~~become inoperative and to be repealed~~ *have its membership reconstituted* on a specified date as provided by ~~the specific act relating to the board~~ *subdivision (a) of Section 473.12*.

(b) ~~The Bureau for Postsecondary and Vocational Education. For purposes of this chapter, "board" includes the bureau~~*Every bureau that is named in subdivision (b) of Section 473.12*.

(c) ~~The Cemetery and Funeral Bureau~~*Every entity that is named in subdivision (c) of Section 473.12*.

SEC. 7. Section 473.12 is added to the Business and Professions Code, to read:

473.12. (a) Notwithstanding any other provision of law, the term of office of each member of the following boards in the department shall terminate on the date listed, unless a later enacted statute, that is enacted before the date listed for that board, deletes or extends that date:

(1) The Dental Board of California: January 1, ____.

(2) The Medical Board of California: January 1, ____.

(3) The State Board of Optometry: January 1, ____.

(4) The California State Board of Pharmacy: January 1, ____.

(5) The Veterinary Medical Board: January 1, ____.

(6) The California Board of Accountancy: January 1, ____.

(7) The California Architects Board: January 1, ____.

(8) The State Board of Barbering and Cosmetology: January 1, ____.

(9) The Board for Professional Engineers and Land Surveyors: January 1, ____.

(10) The Contractors' State License Board: January 1, ____.

(11) The Structural Pest Control Board: January 1, ____.

(12) The Board of Registered Nursing: January 1, ____.

(13) The Board of Behavioral Sciences: January 1, ____.

(14) The State Athletic Commission: January 1, ____.

(15) The State Board of Guide Dogs for the Blind: January 1, ____.

(16) The Court Reporters Board of California: January 1, ____.

(17) The Board of Vocational Nursing and Psychiatric Technicians: January 1, ____.

(18) The Landscape Architects Technical Committee: January 1, ____.

(19) The Board for Geologists and Geophysicists: January 1, ____.

(20) The Respiratory Care Board of California: January 1, ____.

(21) The Acupuncture Board: January 1, ____.

(22) The Board of Psychology: January 1, ____.

(23) The California Board of Podiatric Medicine: January 1, ____.

(24) The Physical Therapy Board of California: January 1, ____.

(25) The Physician Assistant Committee, Medical Board of California: January 1, ____.

(26) The Speech-Language Pathology and Audiology Board: January 1, ____.

(27) The California Board of Occupational Therapy: January 1, ____.

(28) The Dental Hygiene Committee of California: January 1, ____.

(b) Notwithstanding any other provision of law, the term of office for the bureau chief of each of the following bureaus shall terminate on the date listed, unless a later enacted statute, that is enacted before the date listed for that bureau, deletes or extends that date:

(1) Arbitration Review Program: January 1, ____.

(2) Bureau for Private Postsecondary Education: January 1, ____.

(3) Bureau of Automotive Repair: January 1, ____.

(4) Bureau of Electronic and Appliance Repair: January 1, ____.

(5) Bureau of Home Furnishings and Thermal Insulation: January 1, ____.

(6) Bureau of Naturopathic Medicine: January 1, ____.

(7) Bureau of Security and Investigative Services: January 1, ____.

(8) Cemetery and Funeral Bureau: January 1, ____.

(9) Hearing Aid Dispensers Bureau: January 1, ____.

(10) Professional Fiduciaries Bureau: January 1, ____.

(11) Telephone Medical Advice Services Bureau: January 1, ____.

(12) Division of Investigation: January 1, ____.

(c) Notwithstanding any other provision of law, the following shall be subject to review under this chapter on the following dates:

(1) Interior design certification organizations: January 1, ____.

(2) State Board of Chiropractic Examiners pursuant to Section 473.15: January 1, ____.

(3) Osteopathic Medical Board of California pursuant to Section 473.15: January 1, ____.

(4) California Tax Education Council: January 1, ____.

(d) Nothing in this section or in Section 101.1 shall be construed to preclude, prohibit, or in any manner alter the requirement of Senate confirmation of a board member, chief officer, or other appointee that is subject to confirmation by the Senate as otherwise required by law.

(e) It is not the intent of the Legislature in enacting this section to amend the initiative measure that established the State Board of Chiropractic Examiners or the Osteopathic Medical Board of California.

SEC. 8. Section 473.15 of the Business and Professions Code is amended to read:

473.15. (a) The ~~Joint Committee on Boards, Commissions, and Consumer Protection established pursuant to Section 473~~ *appropriate policy committees of the Legislature* shall review the following boards established by initiative measures, as provided in this section:

(1) The State Board of Chiropractic Examiners established by an initiative measure approved by electors November 7, 1922.

(2) The Osteopathic Medical Board of California established by an initiative measure approved June 2, 1913, and acts amendatory thereto approved by electors November 7, 1922.

(b) The Osteopathic Medical Board of California shall prepare an analysis and submit a report as described in subdivisions (a) to (e), inclusive, of Section 473.2, to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* on or before September 1, 2010.

(c) The State Board of Chiropractic Examiners shall prepare an analysis and submit a report as described in subdivisions (a) to (e), inclusive, of Section 473.2, to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* on or before September 1, 2011.

(d) The ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* shall, during the interim recess of ~~2004~~ *2011* for the Osteopathic Medical Board of California, and during the interim

recess of 2011 for the State Board of Chiropractic Examiners, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, the public, and the regulated industry. In that hearing, each board shall be prepared to demonstrate a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.

(e) The ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* shall evaluate and make determinations pursuant to Section 473.4 ~~and shall report its findings and recommendations to the department as provided in Section 473.5~~.

(f) In the exercise of its inherent power to make investigations and ascertain facts to formulate public policy and determine the necessity and expediency of contemplated legislation for the protection of the public health, safety, and welfare, it is the intent of the Legislature that the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California be reviewed pursuant to this section.

(g) It is not the intent of the Legislature in ~~requiring a review under~~ *enacting* this section to amend the initiative measures that established the State Board of Chiropractic Examiners or the Osteopathic Medical Board of California.

SEC. 9. Section 473.16 of the Business and Professions Code is repealed.

~~473.16. The Joint Committee on Boards, Commissions, and Consumer Protection shall examine the composition of the Medical Board of California and its initial and biennial fees and report to the Governor and the Legislature its findings no later than July 1, 2008.~~

SEC. 10. Section 473.2 of the Business and Professions Code is amended to read:

473.2. *(a)* All boards ~~to which this chapter applies~~ *or bureaus listed in Section 473.12* shall, with the assistance of the Department of Consumer Affairs, prepare an analysis and submit a report to the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* no later than 22 months before that ~~board~~ *board's membership or the bureau chief's term* shall ~~become inoperative~~ *be terminated*

pursuant to Section 473.12. The analysis and report shall include, at a minimum, all of the following:

~~(a) A comprehensive statement of the board's mission, goals, objectives and legal jurisdiction in protecting the health, safety, and welfare of the public.~~

~~(b) The board's enforcement priorities, complaint and enforcement data, budget expenditures with average- and median-costs per case, and case aging data specific to post and preaccusation cases at the Attorney General's office.~~

~~(c) The board's~~

(1) The number of complaints it received per year, the number of complaints per year that proceeded to investigation, the number of accusations filed per year, and the number and kind of disciplinary actions taken, including, but not limited to, interim suspension orders, revocations, probations, and suspensions.

(2) The average amount of time per year that elapsed between receipt of a complaint and the complaint being closed or referred to investigation; the average amount of time per year elapsed between the commencement of an investigation and the complaint either being closed or an accusation being filed; the average amount of time elapsed per year between the filing of an accusation and a final decision, including appeals; and the average and median costs per case.

(3) The average amount of time per year between final disposition of a complaint and notice to the complainant.

(4) A copy of the enforcement priorities including criteria for seeking an interim suspension order.

(5) A brief description of the board's or bureau's fund conditions, sources of revenues, and expenditure categories for the last four fiscal years by program component.

~~(d) The board's description of its licensing process including the time and costs~~

(6) A brief description of the cost per year required to implement and administer its licensing examination, ownership of the license examination, *the last assessment of the* relevancy and validity of the licensing examination, ~~and~~ *the* passage rate *for each of the last four years,* and areas of examination.

~~(e) The board's initiation of legislative efforts, budget change proposals, and other initiatives it has taken to improve its legislative mandate.~~

(7) A copy of sponsored legislation and a description of its budget change proposals.

(8) A brief assessment of its licensing fees as to whether they are sufficient, too high, or too low.

(9) A brief statement detailing how the board or bureau over the prior four years has improved its enforcement, public disclosure, accessibility to the public, including, but not limited to, Web casts of its proceedings, and fiscal condition.

(b) If an annual report contains information that is required by this section, a board or bureau may submit the annual report to the committees and it shall post it on the board's or bureau's Internet Web site.

SEC. 11. Section 473.3 of the Business and Professions Code is amended to read:

473.3. ~~(a)~~ Prior to the termination~~, continuation, or reestablishment~~ *of the terms of office* of *the membership of* any board or~~ any of the board's functions, the Joint Committee on Boards, Commissions, and Consumer Protection shall~~ *the chief of any bureau described in Section 473.12, the appropriate policy committees of the Legislature,* during the interim recess preceding the date upon which a~~ board becomes inoperative~~ *board member's or bureau chief's term of office is to be terminated, may* hold public hearings to receive *and consider* testimony from the Director of Consumer Affairs, the board *or bureau* involved,~~ and~~ *the Attorney General, members of* the public, and *representatives of the* regulated industry~~. In that hearing, each board shall have the burden of demonstrating a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare~~ *regarding whether the board's or bureau's policies and practices, including enforcement, disclosure, licensing exam, and fee structure, are sufficient to protect consumers and are fair to licensees and prospective licensees, whether licensure of the profession is required to protect the public, and whether an enforcement monitor may be necessary to obtain further information on operations*.

~~(b) In addition to subdivision (a), in 2002 and every four years thereafter, the committee, in cooperation with the California Postsecondary Education Commission, shall hold a public hearing to receive testimony from the Director of Consumer Affairs, the~~

~~Bureau for Private Postsecondary and Vocational Education, private postsecondary educational institutions regulated by the bureau, and students of those institutions. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.~~

~~(c) The committee, in cooperation with the California Postsecondary Education Commission, shall evaluate and review the effectiveness and efficiency of the Bureau for Private Postsecondary and Vocational Education, based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.~~

~~(d) In addition to subdivision (a), in 2003 and every four years thereafter, the committee shall hold a public hearing to receive testimony from the Director of Consumer Affairs and the Bureau of Automotive Repair. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.~~

~~(e) The committee shall evaluate and review the effectiveness and efficiency of the Bureau of Automotive Repair based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.~~

SEC. 12. Section 473.4 of the Business and Professions Code is amended to read:

473.4. (a) The ~~Joint Committee on Boards, Commissions, and Consumer Protection shall~~ *appropriate policy committees of the Legislature may* evaluate and determine whether a board or regulatory program has demonstrated a public need for the continued existence of the ~~board or~~ regulatory program and for the degree of regulation the board or regulatory program

implements based on the following factors and minimum standards of performance:

(1) Whether regulation by the board is necessary to protect the public health, safety, and welfare.

(2) Whether the basis or facts that necessitated the initial licensing or regulation of a practice or profession have changed.

(3) Whether other conditions have arisen that would warrant increased, decreased, or the same degree of regulation.

(4) If regulation of the profession or practice is necessary, whether existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether the board rules enhance the public interest and are within the scope of legislative intent.

(5) Whether the board operates and enforces its regulatory responsibilities in the public interest and whether its regulatory mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personnel matters.

(6) Whether an analysis of board operations indicates that the board performs its statutory duties efficiently and effectively.

(7) Whether the composition of the board adequately represents the public interest and whether the board encourages public participation in its decisions rather than participation only by the industry and individuals it regulates.

(8) Whether the board and its laws or regulations stimulate or restrict competition, and the extent of the economic impact the board's regulatory practices have on the state's business and technological growth.

(9) Whether complaint, investigation, powers to intervene, and disciplinary procedures adequately protect the public and whether final dispositions of complaints, investigations, restraining orders, and disciplinary actions are in the public interest; or if it is, instead, self-serving to the profession, industry or individuals being regulated by the board.

(10) Whether the scope of practice of the regulated profession or occupation contributes to the highest utilization of personnel and whether entry requirements encourage affirmative action.

(11) Whether administrative and statutory changes are necessary to improve board operations to enhance the public interest.

~~(b) The Joint Committee on Boards, Commissions, and Consumer Protection shall consider alternatives to placing responsibilities and jurisdiction of the board under the Department of Consumer Affairs.~~

~~(c)~~

(b) Nothing in this section precludes any board from submitting other appropriate information to the ~~Joint Committee on Boards, Commissions, and Consumer Protection.~~ *appropriate policy committees of the Legislature.*

SEC. 13. Section 473.5 of the Business and Professions Code is repealed.

~~473.5. The Joint Committee on Boards, Commissions, and Consumer Protection shall report its findings and preliminary recommendations to the department for its review, and, within 90 days of receiving the report, the department shall report its findings and recommendations to the Joint Committee on Boards, Commissions, and Consumer Protection during the next year of the regular session that follows the hearings described in Section 473.3. The committee shall then meet to vote on final recommendations. A final report shall be completed by the committee and made available to the public and the Legislature. The report shall include final recommendations of the department and the committee and whether each board or function scheduled for repeal shall be terminated, continued, or reestablished, and whether its functions should be revised. If the committee or the department deems it advisable, the report may include proposed bills to carry out its recommendations.~~

SEC. 14. Section 473.6 of the Business and Professions Code is amended to read:

473.6. The chairpersons of the appropriate policy committees of the Legislature may refer to ~~the Joint Committee on Boards, Commissions, and Consumer Protection for~~ *interim study* review of any legislative issues or proposals to create new licensure or regulatory categories, change licensing requirements, modify scope of practice, or create a new licensing board under the provisions of this code or pursuant to Chapter 1.5 (commencing with Section 9148) of Part 1 of Division 2 of Title 2 of the Government Code.

SEC. 15. Section 473.7 is added to the Business and Professions Code, to read:

473.7. The appropriate policy committees of the Legislature may, through their oversight function, investigate the operations of any entity to which this chapter applies and hold public hearings on any matter subject to public hearing under Section 473.3.

SEC. 16. Section 9882 of the Business and Professions Code is amended to read:

9882. (a) There is in the Department of Consumer Affairs a Bureau of Automotive Repair under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief who is responsible to the director. The director may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of this chapter and declaring the policy of the bureau, including a system for the issuance of citations for violations of this chapter as specified in Section 125.9. These rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In 2003 and every four years thereafter, the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *appropriate policy committees of the Legislature* shall hold a public hearing to receive *and consider* testimony from the Director of Consumer Affairs ~~and~~, the bureau~~. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare~~, *the Attorney General, members of the public, and representatives of this industry regarding the bureau's policies and practices as specified in Section 473.3*. The ~~committee shall~~ *appropriate policy committees of the Legislature may* evaluate and review the effectiveness and efficiency of the bureau based on factors and minimum standards of performance that are specified in Section 473.4. ~~The committee shall report its findings and recommendations as specified in Section 473.5.~~ The bureau shall prepare an analysis and submit a report to the ~~committee~~ *appropriate policy committees of the Legislature* as specified in Section 473.2.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MARCH 19, 2009
BILL ANALYSIS

AUTHOR:	Negrete McLeod	**BILL NUMBER:**	SB 674
SPONSOR:	Negrete McLeod	**BILL STATUS:**	Senate
SUBJECT:	Healing arts: outpatient settings	**DATE LAST AMENDED:**	Introduced 2/27/09

SUMMARY:
Existing law requires the Medical Board of California, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, to review issues and problems relating to the use of laser or intense light pulse devices for elective cosmetic procedures by their respective licensees.

Existing law requires, on or before January 1, 2009, the Medical Board of California and the Board of Registered Nursing to promulgate regulations to implement changes determined to be necessary with regard to the use of laser or intense pulse light devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants.

This bill would amend sections of the Business and Professions code and the Health and Safety Code.

ANALYSIS:
On or before July 1, 2010, the Medical Board of California would have to adopt regulations regarding the appropriate level of physician availability needed within clinics or other settings using laser or intense pulse light devices for elective cosmetic procedures. However, these regulations would not apply to laser or intense pulse light devices approved by the federal Food and Drug Administration for over-the-counter use by a health care practitioner or by an unlicensed person on himself or herself.

During the 2007-2008 Legislative Session, the Board of Registered Nursing and the Medical Board conducted three public forums through-out the state to provide the public an opportunity to address any issues relative to the use of lasers for elective cosmetic procedures.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 674

Introduced by Senator Negrete McLeod

February 27, 2009

An act to amend Sections 651, 680, and 2023.5 of, and to add Section 2027.5 to, the Business and Professions Code, and to amend Sections 1248, 1248.15, 1248.2, 1248.25, 1248.35, and 1248.5 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 674, as introduced, Negrete McLeod. Healing arts: outpatient settings.

(1) Existing law provides that it is unlawful for healing arts licensees to disseminate or cause to be disseminated any form of public communication, as defined, containing a false, fraudulent, misleading, or deceptive statement, claim, or image to induce the rendering of services or the furnishing of products relating to a professional practice or business for which he or she is licensed. Existing law authorizes advertising by these healing arts licensees to include certain general information. A violation of these provisions is a misdemeanor.

This bill would impose specific advertising requirements on certain healing arts licensees. By changing the definition of a crime, this bill would impose a state-mandated local program.

(2) Existing law requires a health care practitioner to disclose, while working, his or her name and license status on a specified name tag. However, existing law exempts from this requirement a health care practitioner, in a practice or office, whose license is prominently displayed.

This bill would delete that exemption and would instead authorize a health care practitioner, in a practice or office, to disclose his or her name and his or her type of license verbally.

(3) Existing law requires the Medical Board of California, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, to review issues and problems relating to the use of laser or intense light pulse devices for elective cosmetic procedures by their respective licensees.

This bill would require the board to adopt regulations by July 1, 2010, regarding the appropriate level of physician availability needed within clinics or other settings using certain laser or intense pulse light devices for elective cosmetic procedures.

(4) Existing law requires the board to post on the Internet specified information regarding licensed physicians and surgeons.

This bill would require the board to post on its Internet Web site an easy-to-understand factsheet to educate the public about cosmetic surgery and procedures, as specified.

(5) Existing law requires the Medical Board of California, as successor to the Division of Licensing of the Medical Board of California, to adopt standards for accreditation of outpatient settings, as defined, and, in approving accreditation agencies to perform this accreditation, to ensure that the certification program shall, at a minimum, include standards for specified aspects of the settings' operations.

This bill would include, among those specified aspects, the submission for approval by an accrediting agency at the time of accreditation, a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery. The bill would also modify the definition of "outpatient setting" to include facilities that offer in vitro fertilization, as defined, and assisted reproduction technology treatments.

(6) Existing law also requires the Medical Board of California to obtain and maintain a list of all accredited, certified, and licensed outpatient settings, and to notify the public, upon inquiry, whether a setting is accredited, certified, or licensed, or whether the setting's accreditation, certification, or license has been revoked.

This bill would require the board, absent inquiry, to notify the public whether a setting is accredited, certified, or licensed, or the setting's accreditation, certification, or license has been revoked, suspended, or placed on probation, or the setting has received a reprimand by the accreditation agency.

(7) Existing law requires accreditation of an outpatient setting to be denied if the setting does not meet specified standards. Existing law authorizes an outpatient setting to reapply for accreditation at any time after receiving notification of the denial.

This bill would require the accrediting agency to immediately report to the Medical Board of California if the outpatient setting's certificate for accreditation has been denied.

(8) Existing law authorizes the Medical Board of California as successor to the Division of Medical Quality of the Medical Board of California, or an accreditation agency to, upon reasonable prior notice and presentation of proper identification, enter and inspect any accredited outpatient setting to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of the specified law.

This bill would delete the notice and identification requirements, and the bill would require that every outpatient setting that is accredited be periodically inspected by the board or the accreditation agency, as specified.

(9) Existing law authorizes the Medical Board of California to evaluate the performance of an approved accreditation agency no less than every 3 years, or in response to complaints against an agency, or complaints against one or more outpatient settings accreditation by an agency that indicates noncompliance by the agency with the standards approved by the board.

This bill would make that evaluation mandatory.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 651 of the Business and Professions Code is amended to read:

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public

communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim

that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(i) For the purposes of this section, a dentist licensed under Chapter 4 (commencing with Section 1600) may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the practitioner has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation, is eligible for examination by a national specialty board recognized by the American Dental Association, or is a diplomate of a national specialty board recognized by the American Dental Association.

(ii) A dentist licensed under Chapter 4 (commencing with Section 1600) shall not represent to the public or advertise accreditation either in a specialty area of practice or by a board not meeting the requirements of clause (i) unless the dentist has attained membership in or otherwise been credentialed by an accrediting organization that is recognized by the board as a bona fide organization for that area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under clause (i), the organization shall

condition membership or credentialing of its members upon all of the following:

(I) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a university based dental school and is beyond the dental degree at a graduate or postgraduate level.

(II) Prior didactic training and clinical experience in the specific area of dentistry that is greater than that of other dentists.

(III) Successful completion of oral and written examinations based on psychometric principles.

(iii) Notwithstanding the requirements of clauses (i) and (ii), a dentist who lacks membership in or certification, diplomate status, other similar credentials, or completed advanced training approved as bona fide either by an American Dental Association recognized accrediting organization or by the board, may announce a practice emphasis in any other area of dental practice only if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement that he or she is a general dentist.

(iv) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board

or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

(C) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board

or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) (1) Advertising by the following licensees shall include the designations as follows:

(A) Advertising by a chiropractor licensed under Chapter 2 (commencing with Section 1000) shall include the designation "DC" immediately following the chiropractor's name.

(B) Advertising by a dentist licensed under Chapter 4 (commencing with Section 1600) shall include the designation "DDS" immediately following the dentist's name.

(C) Advertising by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) shall include the designation "MD" immediately following the physician and surgeon's name.

(D) Advertising by an osteopathic physician and surgeon certified under Article 21 (commencing with Section 2450) shall include the designation "DO" immediately following the osteopathic physician and surgeon's name.

(E) Advertising by a podiatrist certified under Article 22 (commencing with Section 2460) of Chapter 5 shall include the designation "DPM" immediately following the podiatrist's name.

(F) Advertising by a registered nurse licensed under Chapter 6 (commencing with Section 2700) shall include the designation "RN" immediately following the registered nurse's name.

(G) Advertising by a licensed vocational nurse under Chapter 6.5 (commencing with Section 2840) shall include the designation "LVN" immediately following the licensed vocational nurse's name.

(H) Advertising by a psychologist licensed under Chapter 6.6 (commencing with Section 2900) shall include the designation "Ph.D." immediately following the psychologist's name.

(I) Advertising by an optometrist licensed under Chapter 7 (commencing with Section 3000) shall include the designation "OD" immediately following the optometrist's name.

(J) Advertising by a physician assistant licensed under Chapter 7.7 (commencing with Section 3500) shall include the designation "PA" immediately following the physician assistant's name.

(K) Advertising by a naturopathic doctor licensed under Chapter 8.2 (commencing with Section 3610) shall include the designation "ND" immediately following the naturopathic doctor's name.

(2) For purposes of this subdivision, "advertisement" includes communication by means of mail, television, radio, motion picture, newspaper, book, directory, Internet, or other electronic communication.

(3) Advertisements do not include any of the following:

(A) A medical directory released by a health care service plan or a health insurer.

(B) A billing statement from a health care practitioner to a patient.

(C) An appointment reminder from a health care practitioner to a patient.

(4) This subdivision shall not apply until January 1, 2011, to any advertisement that is published annually and prior to July 1, 2010.

(5) This subdivision shall not apply to any advertisement or business card disseminated by a health care service plan that is subject to the requirements of Section 1367.26 of the Health and Safety Code.

~~(i)~~

(j) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

~~(j)~~

(k) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys,

county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

~~(k)~~

(l) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

SEC. 2. Section 680 of the Business and Professions Code is amended to read:

680. (a) Except as otherwise provided in this section, a health care practitioner shall disclose, while working, his or her name and *the* practitioner's *type of* license ~~status~~, as granted by this state, on a name tag in at least 18-point type. ~~A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag.~~ *A health care practitioner in a practice or office may opt to disclose this information verbally.* If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency shall have the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title "nurse" in reference to himself or herself and in any capacity, except for an individual who is a registered nurse or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using his or her title.

(b) Facilities licensed by the State Department of Social Services, the State Department of Mental Health, or the State Department of *Public* Health ~~Services~~ shall develop and implement policies to ensure that health care practitioners providing care in those facilities are in compliance with subdivision (a). The State Department of Social Services, the State Department of Mental Health, and the State Department of *Public* Health ~~Services~~ shall verify through periodic inspections that the policies required

pursuant to subdivision (a) have been developed and implemented by the respective licensed facilities.

(c) For purposes of this article, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

SEC. 3. Section 2023.5 of the Business and Professions Code is amended to read:

2023.5. (a) The board, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, shall review issues and problems surrounding the use of laser or intense light pulse devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants. The review shall include, but need not be limited to, all of the following:

(1) The appropriate level of physician supervision needed.

(2) The appropriate level of training to ensure competency.

(3) Guidelines for standardized procedures and protocols that address, at a minimum, all of the following:

(A) Patient selection.

(B) Patient education, instruction, and informed consent.

(C) Use of topical agents.

(D) Procedures to be followed in the event of complications or side effects from the treatment.

(E) Procedures governing emergency and urgent care situations.

(b) On or before January 1, 2009, the board and the Board of Registered Nursing shall promulgate regulations to implement changes determined to be necessary with regard to the use of laser or intense pulse light devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants.

(c) On or before July 1, 2010, the board shall adopt regulations regarding the appropriate level of physician availability needed within clinics or other settings using laser or intense pulse light devices for elective cosmetic procedures. However, these regulations shall not apply to laser or intense pulse light devices approved by the federal Food and Drug Administration for over-the-counter use by a health care practitioner or by an unlicensed person on himself or herself.

SEC. 4. Section 2027.5 is added to the Business and Professions Code, to read:

2027.5. The board shall post on its Internet Web site an easy-to-understand factsheet to educate the public and about cosmetic surgery and procedures, including their risks. Included with the factsheet shall be a comprehensive list of questions for patients to ask their physician and surgeon regarding cosmetic surgery.

SEC. 5. Section 1248 of the Health and Safety Code is amended to read:

1248. For purposes of this chapter, the following definitions shall apply:

(a) "Division" means the ~~Division of Licensing of the~~ Medical Board of California. *All references in this chapter to the division, the Division of Licensing of the Medical Board of California, or the Division of Medical Quality shall be deemed to refer to the Medical Board of California pursuant to Section 2002 of the Business and Professions Code.*

~~(b) "Division of Medical Quality" means the Division of Medical Quality of the Medical Board of California.~~

~~(c)~~

(b) "Outpatient setting" means any facility, clinic, unlicensed clinic, center, office, or other setting that is not part of a general acute care facility, as defined in Section 1250, and where anesthesia, except local anesthesia or peripheral nerve blocks, or both, is used in compliance with the community standard of practice, in doses that, when administered have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes. *"Outpatient setting" also means facilities that offer in vitro fertilization, as defined in subdivision (b) of Section 1374.55, or facilities that offer assisted reproduction technology treatments.*

"Outpatient setting" does not include, among other settings, any setting where anxiolytics and analgesics are administered, when done so in compliance with the community standard of practice, in doses that do not have the probability of placing the patient at risk for loss of the patient's life-preserving protective reflexes.

~~(d)~~

(c) "Accreditation agency" means a public or private organization that is approved to issue certificates of accreditation to outpatient settings by the ~~division~~ *board* pursuant to Sections 1248.15 and 1248.4.

SEC. 6. Section 1248.15 of the Health and Safety Code is amended to read:

1248.15. (a) The ~~division~~ *board* shall adopt standards for accreditation and, in approving accreditation agencies to perform accreditation of outpatient settings, shall ensure that the certification program shall, at a minimum, include standards for the following aspects of the settings' operations:

(1) Outpatient setting allied health staff shall be licensed or certified to the extent required by state or federal law.

(2) (A) Outpatient settings shall have a system for facility safety and emergency training requirements.

(B) There shall be onsite equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate handling of any medical emergency that may arise in connection with services sought or provided.

(C) In order for procedures to be performed in an outpatient setting as defined in Section 1248, the outpatient setting shall do one of the following:

(i) Have a written transfer agreement with a local accredited or licensed acute care hospital, approved by the facility's medical staff.

(ii) Permit surgery only by a licensee who has admitting privileges at a local accredited or licensed acute care hospital, with the exception that licensees who may be precluded from having admitting privileges by their professional classification or other administrative limitations, shall have a written transfer agreement with licensees who have admitting privileges at local accredited or licensed acute care hospitals.

~~(iii) Submit~~

(D) Submission for approval by an accrediting agency *of* a detailed procedural plan for handling medical emergencies that shall be reviewed at the time of accreditation. No reasonable plan shall be disapproved by the accrediting agency.

(E) Submission for approval by an accrediting agency at the time of accreditation of a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery that would place a patient at high risk for injury or harm and to govern emergency and urgent care situations.

~~(D)~~

(F) All physicians and surgeons transferring patients from an outpatient setting shall agree to cooperate with the medical staff peer review process on the transferred case, the results of which shall be referred back to the outpatient setting, if deemed appropriate by the medical staff peer review committee. If the medical staff of the acute care facility determines that inappropriate care was delivered at the outpatient setting, the acute care facility's peer review outcome shall be reported, as appropriate, to the accrediting body, the Health Care Financing Administration, the State Department of *Public* Health ~~Services~~, and the appropriate licensing authority.

(3) The outpatient setting shall permit surgery by a dentist acting within his or her scope of practice under Chapter 4 (commencing with Section 1600) of *Division 2 of* the Business and Professions Code or physician and surgeon, osteopathic physician and surgeon, or podiatrist acting within his or her scope of practice under Chapter 5 (commencing with Section 2000) of *Division 2 of* the Business and Professions Code or the Osteopathic Initiative Act. The outpatient setting may, in its discretion, permit anesthesia service by a certified registered nurse anesthetist acting within his or her scope of practice under Article 7 (commencing with Section 2825) of Chapter 6 of *Division 2 of* the Business and Professions Code.

(4) Outpatient settings shall have a system for maintaining clinical records.

(5) Outpatient settings shall have a system for patient care and monitoring procedures.

(6) (A) Outpatient settings shall have a system for quality assessment and improvement.

(B) Members of the medical staff and other practitioners who are granted clinical privileges shall be professionally qualified and appropriately credentialed for the performance of privileges granted. The outpatient setting shall grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting.

(C) Clinical privileges shall be periodically reappraised by the outpatient setting. The scope of procedures performed in the outpatient setting shall be periodically reviewed and amended as appropriate.

(7) Outpatient settings regulated by this chapter that have multiple service locations governed by the same standards may elect to have all service sites surveyed on any accreditation survey. Organizations that do not elect to have all sites surveyed shall have a sample, not to exceed 20 percent of all service sites, surveyed. The actual sample size shall be determined by the ~~division~~ *board*. The accreditation agency shall determine the location of the sites to be surveyed. Outpatient settings that have five or fewer sites shall have at least one site surveyed. When an organization that elects to have a sample of sites surveyed is approved for accreditation, all of the organizations' sites shall be automatically accredited.

(8) Outpatient settings shall post the certificate of accreditation in a location readily visible to patients and staff.

(9) Outpatient settings shall post the name and telephone number of the accrediting agency with instructions on the submission of complaints in a location readily visible to patients and staff.

(10) Outpatient settings shall have a written discharge criteria.

(b) Outpatient settings shall have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS), as long as a patient is present who has not been discharged from supervised care. Transfer to an unlicensed setting of a patient who does not meet the discharge criteria adopted pursuant to paragraph (10) of subdivision (a) shall constitute unprofessional conduct.

(c) An accreditation agency may include additional standards in its determination to accredit outpatient settings if these are approved by the ~~division~~ *board* to protect the public health and safety.

(d) No accreditation standard adopted or approved by the ~~division~~ *board*, and no standard included in any certification program of any accreditation agency approved by the ~~division~~ *board*, shall serve to limit the ability of any allied health care practitioner to provide services within his or her full scope of practice. Notwithstanding this or any other provision of law, each outpatient setting may limit the privileges, or determine the privileges, within the appropriate scope of practice, that will be afforded to physicians and allied health care practitioners who practice at the facility, in accordance with credentialing standards

established by the outpatient setting in compliance with this chapter. Privileges may not be arbitrarily restricted based on category of licensure.

SEC. 7. Section 1248.2 of the Health and Safety Code is amended to read:

1248.2. (a) Any outpatient setting may apply to an accreditation agency for a certificate of accreditation. Accreditation shall be issued by the accreditation agency solely on the basis of compliance with its standards as approved by the ~~division~~ *board* under this chapter.

(b) The ~~division~~ *board* shall obtain and maintain a list of all accredited, certified, and licensed outpatient settings from the information provided by the accreditation, certification, and licensing agencies approved by the ~~division~~ *board*, and shall notify the public~~, upon inquiry,~~ whether a setting is accredited, certified, or licensed, or ~~whether~~ the setting's accreditation, certification, or license has been revoked, *suspended, or placed on probation, or the setting has received a reprimand by the accreditation agency*.

SEC. 8. Section 1248.25 of the Health and Safety Code is amended to read:

1248.25. If an outpatient setting does not meet the standards approved by the ~~division~~ *board*, accreditation shall be denied by the accreditation agency, which shall provide the outpatient setting notification of the reasons for the denial. An outpatient setting may reapply for accreditation at any time after receiving notification of the denial. *The accrediting agency shall immediately report to the board if the outpatient setting's certificate for accreditation has been denied.*

SEC. 9. Section 1248.35 of the Health and Safety Code is amended to read:

1248.35. (a) ~~The Division of Medical Quality~~*Every outpatient setting which is accredited shall be periodically inspected by the Medical Board of California* or ~~an~~ *the* accreditation agency ~~may,~~. *The frequency of inspection shall depend* upon ~~reasonable prior notice~~ *the type* and ~~presentation~~ *complexity* of ~~proper identification,~~ *the outpatient setting to be inspected. Inspections shall be conducted no less often than once every three years and as often as necessary to ensure the quality of care provided. The Medical Board of California or the accreditation agency may* enter and inspect any outpatient setting that is accredited by an accreditation

agency at any reasonable time to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of this chapter.

(b) If an accreditation agency determines, as a result of its inspection, that an outpatient setting is not in compliance with the standards under which it was approved, the accreditation agency may do any of the following:

(1) Issue a reprimand.

(2) Place the outpatient setting on probation, during which time the setting shall successfully institute and complete a plan of correction, approved by the ~~division~~ *board* or the accreditation agency, to correct the deficiencies.

(3) Suspend or revoke the outpatient setting's certification of accreditation.

(c) Except as is otherwise provided in this subdivision, before suspending or revoking a certificate of accreditation under this chapter, the accreditation agency shall provide the outpatient setting with notice of any deficiencies and *the outpatient setting shall agree with the accreditation agency on a plan of correction that shall give the outpatient setting* reasonable time to supply information demonstrating compliance with the standards of the accreditation agency in compliance with this chapter, as well as the opportunity for a hearing on the matter upon the request of the outpatient center. *During that allotted time, a list of deficiencies and the plan of correction shall be conspicuously posted in a clinic location accessible to public view.* The accreditation agency may immediately suspend the certificate of accreditation before providing notice and an opportunity to be heard, but only when failure to take the action may result in imminent danger to the health of an individual. In such cases, the accreditation agency shall provide subsequent notice and an opportunity to be heard.

(d) If the ~~division~~ *board* determines that deficiencies found during an inspection suggests that the accreditation agency does not comply with the standards approved by the ~~division~~ *board*, the ~~division~~ *board* may conduct inspections, as described in this section, of other settings accredited by the accreditation agency to determine if the agency is accrediting settings in accordance with Section 1248.15.

(e) Reports on the results of each inspection shall be kept on file with the board or the accrediting agency along with the plan

of correction and the outpatient setting comments. The inspection report may include a recommendation for reinspection. All inspection reports, lists of deficiencies, and plans of correction shall be public records open to public inspection.

(f) The accrediting agency shall immediately report to the board if the outpatient setting has been issued a reprimand or if the outpatient setting's certification of accreditation has been suspended or revoked or if the outpatient setting has been placed on probation.

SEC. 10. Section 1248.5 of the Health and Safety Code is amended to read:

1248.5. The ~~division may~~ *board shall* evaluate the performance of an approved accreditation agency no less than every three years, or in response to complaints against an agency, or complaints against one or more outpatient settings accreditation by an agency that indicates noncompliance by the agency with the standards approved by the ~~division~~ *board*.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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